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DOCUMENTS  
OF THE  
**SENATE**  
OF THE  
STATE OF NEW-YORK,  
FIFTY-SIXTH SESSION,  
**1833.**

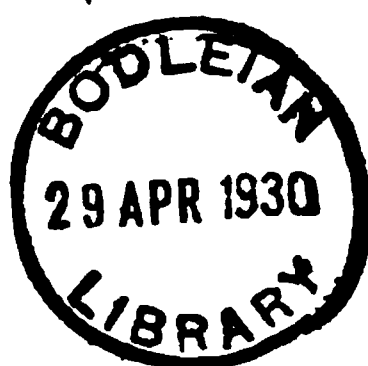
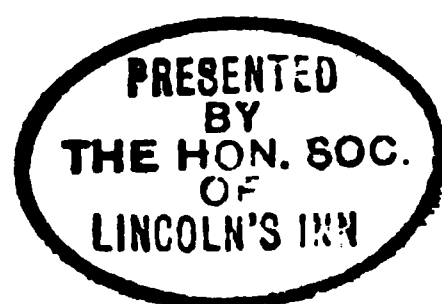
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VOLUME II.  
FROM No. 41 TO 123 INCLUSIVE.

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ALBANY:  
PRINTED BY E. CROSWELL, PRINTER TO THE STATE.

1833.



**IN SENATE,**

**January 31, 1833.**

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STATE OF NEW-YORK, }  
*In Senate, January 31, 1833. }*

*Resolved,* That there be printed four times the usual number of copies of the Virginia and Kentucky Resolutions of 1798, Mr. Madison's report on the Virginia Resolutions in 1799, and also Mr. Madison's Letter to the editor of the North American Review, in August, 1830.

By order.

JOHN F. BACON, *Clerk.*

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**MESSAGE**



**From Governor Jay, of the 12th January, 1799, accompanying Resolutions from Virginia and Kentucky.**

**GENTLEMEN,**

Certain Resolutions of the Legislatures of Virginia and Kentucky having been officially transmitted to me for the purpose of being laid before you, they accompany this message.

JOHN JAY.

*Albany, 12th January, 1799.*



## **Resolutions of the Legislature of Virginia relative to the Alien and Sedition Laws.**

**VIRGINIA TO WIT.**

**IN THE HOUSE OF DELEGATES, }  
Friday, December 21st, 1798. }**

***Resolved,*** That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this State, against every aggression, either foreign or domestic, and that they will support the government of the United States in all measures, warranted by the former.

That this Assembly most solemnly declares a warm attachment to the union of the States, to maintain which it pledges its powers; and that for this end it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that union, because a faithful observance of them can alone secure its existence, and the public happiness.

That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government as resulting from the compact, to which the states are parties; as limited by the plain sense and intention of the instrument constituting that compact; as no farther valid than they are authorized by the grants enumerated in that compact, and that in case of a deliberate, palpable and dangerous exercise of other powers not granted by the said compact, the States who are parties thereto, have the right, and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights and liberties appertaining to them.

That the General Assembly doth also express its deep regret that a spirit has, in sundry instances, been manifested by the Federal Government, to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases, (which having been copied from the very limited grant of powers in the former articles of confederation, were the less liable to be misconstrued,) so as to destroy the meaning and effect of the particular enumeration, which necessarily explains and limits the

general phrases; and so as to consolidate the States by degrees into one sovereignty, the obvious tendency and inevitable consequence of which would be, to transform the present republican system of the United States into an absolute, or at best, a mixed monarchy.

That the General Assembly doth particularly protest against the palpable and alarming infraction of the Constitution, in the two late cases of the "Alien and Sedition acts," passed at the last session of Congress; the first of which exercises a power no where delegated to the Federal Government; and which, by uniting legislative and judicial powers to those of the executive, subverts the general principles of free government, as well as the particular organization and positive provisions of the federal Constitution: and the other of which acts exercises in like manner a power not delegated by the Constitution, but on the contrary expressly and positively forbidden by one of the amendments thereto; a power which more than any other ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

That this State having, by its Convention, which ratified the Federal Constitution, expressly declared, "that among other essential rights, the liberty of conscience and of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry or ambition, having with other States recommended an amendment for that purpose, which amendment was in due time annexed to the Constitution, it would mark a reproachful inconsistency and criminal degeneracy, if an indifference were now shewn to the most palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which may be fatal to the other.

That the good people of this Commonwealth having ever felt and continuing to feel the most sincere affection to their brethren of the other states, the truest anxiety for establishing and perpetuating the Union of all, and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship, and the instrument of mutual happiness. The General Assembly doth so-

lemnly appeal to the like dispositions of the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional, and that the necessary and proper measures will be taken by each, for co-operating with this State in maintaining unimpaired the authorities, rights and liberties, reserved to the States respectively, or to the people.

That the Governor be desired to transmit a copy of the foregoing resolutions to the executive authority of each of the other States, with a request that the same may be communicated to the Legislature thereof.

And that a copy be furnished to each of the senators and representatives representing this State in the Congress of the United States.

Attest,

JOHN STEWART, C. H. D.

1798, December the 24th,

Agreed to by the Senate.

H. BROOKE, C. S.





## **Resolutions of the Legislature of Kentucky, relative to the Alien and Sedition Laws.**

IN THE HOUSE OF REPRESENTATIVES, }  
November 10th, 1798. }

The House, according to the standing order of the day, resolved itself into a committee of the whole on the state of the Commonwealth, Mr. Caldwell in the chair; and after some time spent therein the Speaker resumed the chair, and Mr. Caldwell reported, that the committee had, according to order, had under consideration the Governor's Address, and had come to the following **RESOLUTIONS** thereupon, which he delivered in at the clerk's table, where they were twice read and agreed to by the House.

I. *Resolved*, That the several States composing the United States of America, are not united on the principle of unlimited submission to their General Government; but that by compact under the style and title of a Constitution for the United States and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself, the residuary mass of right to their own self Government; and that whensoever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force: That to this compact each State acceded as a State, and is an integral party, its co-States forming as to itself, the other party: That the Government created by this compact was not made the exclusive or final *judge* of the extent of the powers delegated to itself; since that would have made its discretion, and not the constitution, the measure of its powers; but that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

II. *Resolved*, That the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and offences against the laws of nations, and no other crimes whatever, and it being true as a general principle, and one of the amendments to the Constitu-

tion having also declared, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," therefore also the same act of Congress passed on the 14th day of July, 1798, and entitled "An act in addition to the act entitled an act for the punishment of certain crimes against the United States;" as also the act passed by them on the 27th day of June, 1798, entitled "An act to punish frauds committed on the Bank of the United States," (and all other their acts which assume to create, define, or punish crimes other than those enumerated in the Constitution,) are altogether void and of no force, and that the power to create, define, and punish such other crimes is reserved, and of right appertains solely and exclusively to the respective States, each within its own territory.

III. *Resolved*, That it is true as a general principle, and is also expressly declared by one of the amendments to the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people;" and that no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States, or to the people: That thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use, should be tolerated rather than the use be destroyed; and thus also they guarded against all abridgement by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same, as this State by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference: And that in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution which expressly declares, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch, that whatever violates either, throws down the

sanctuary which covers the others, and that libels, falsehoods, and defamation, equally with heresy and false religion, are withheld from the cognizance of federal tribunals. That therefore the act of the Congress of the United States passed on the 14th day of July, 1798, entitled "An act in addition to the act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is not law, but is altogether void and of no effect.

IV. *Resolved*, That alien friends are under the jurisdiction and protection of the laws of the State wherein they are; that no power over them has been delegated to the United States, nor prohibited to the individual States distinct from their power over citizens; and it being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people," the act of the Congress of the United States passed on the 22d day of June, 1798, entitled "An act concerning aliens," which assumes power over alien friends not delegated by the Constitution, is not law, but is altogether void and of no force.

V. *Resolved*, That in addition to the general principle as well as the express declaration, that powers not delegated are reserved, another and more special provision inserted in the Constitution from abundant caution has declared, "that the *migration* or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." That this Commonwealth does admit the migration of alien friends described as the subject of the said act concerning aliens; that a provision against prohibiting their migration, is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them when migrated is equivalent to a prohibition of their migration, and is therefore contrary to the said provision of the Constitution, and void.

VI. *Resolved*, That the imprisonment of a person under the protection of the laws of this Commonwealth on his failure to obey the simple *order* of the President to depart out of the United States, as is undertaken by the said act entitled "An act concerning Aliens," is contrary to the Constitution, one amendment to

which has provided, that "no person shall be deprived of liberty without due process of law," and that another having provided "that in all criminal prosecutions, the accused shall enjoy the right to a public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence," the same act undertaking to authorize the President to remove a person out of the United States who is under the protection of the law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favor, without defence, without counsel, is contrary to these provisions also of the Constitution, is therefore not law, but utterly void and of no force.

That transferring the power of judging any person who is under the protection of the laws, from the Courts to the President of the United States, as is undertaken by the same act concerning aliens, is against the article of the Constitution which provides, that "the judicial power of the United States shall be vested in Courts, the Judges of which shall hold their offices during good behavior," and that the said act is void for that reason also; and it is further to be noted, that this transfer of judiciary power is to that magistrate of the General Government who already possesses all the Executive, and a qualified negative in all the Legislative powers.

VII. *Resolved*, That the construction applied by the General Government (as is evinced by sundry of their proceedings) to those parts of the Constitution of the United States which delegate to Congress a power to lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence, and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution—That words meant by that instrument to be subsidiary only to the execution of the limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken, as to destroy the whole residue of the instrument: That the proceedings of the General Government under color of these articles, will be a fit and necessary subject for revisal and correction, at a time of

greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

VIII. *Resolved*, That the preceding resolutions be transmitted to the Senators and Representatives in Congress from this Commonwealth, who are hereby enjoined to present the same to their respective Houses, and to use their best endeavors to procure at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts:

IX. *Resolved*, lastly, That the Governor of this Commonwealth be, and is hereby authorised and requested to communicate the preceding resolutions to the Legislatures of the several States, to assure them that this Commonwealth considers Union for specified national purposes, and particularly for those specified in their late Federal Compact, to be friendly to the peace, happiness, and prosperity of all the States: that faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation: that it does also believe, that to take from the States all the powers of self-government, and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these States: And that therefore, this Commonwealth is determined, as it doubts not its co-States are, tamely to submit to undelegated and consequently unlimited powers in no man or body of men on earth: that if the acts before specified should stand, these conclusions would flow from them; that the General Government may place any act they think proper on the list of crimes and punish it themselves, whether enumerated or not enumerated by the Constitution as cognizable by them: that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge, and jury, whose *suspitions* may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction: that a very numerous and valuable description of the inhabitants of these States, being by this precedent reduced as outlaws to the absolute dominion of one man, and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the power of a majority of Congress, to protect from a like exportation or other more grievous punishment the minority of the same body, the Legislatures, Judges, Governors, and

Counsellors of the States, nor their other peaceable inhabitants who may venture to reclaim the constitutional rights and liberties of the States and people, or who for other causes, good or bad, may be obnoxious to the views or marked by the suspicions of the President, or be thought dangerous to his or their elections or other interests public or personal: that the friendless alien has indeed been selected as the safest subject of a first experiment: but the citizen will soon follow, or rather has already followed; for, already has a Sedition act marked him as its prey: that these and successive acts of the same character, unless arrested on the threshold, may tend to drive these States into revolution and blood, and will furnish new calumnies against Republican Governments, and new pretexts for those who wish it to be believed, that man cannot be governed but by a rod of iron: that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is every where the parent of despotism: free government is founded in jealousy and not in confidence; it is jealousy and not confidence which prescribes limited Constitutions to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go; and let the honest advocate of confidence read the Alien and Sedition acts, and say if the Constitution has not been wise in fixing limits to the Government it created, and whether we should be wise in destroying those limits? Let him say what the Government is if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted over the friendly strangers, to whom the mild spirit of our country and its laws had pledged hospitality and protection: that the men of our choice have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. In questions of power then let no more be heard of confidence in man, but bind him down from mischief by the chain of the Constitution. That this Commonwealth does therefore call on its co-States for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes herein before specified, plainly declaring whether these acts are or are not authorised by the Federal Compact? And it doubts not that their sense will be so announced as to prove their attachment unaltered to limited government, whether

general or particular, and that the rights and liberties of their co-States will be exposed to no dangers by remaining embarked on a common bottom with their own: That they will concur with this Commonwealth in considering the said acts as so palpably against the Constitution as to amount to an undisguised declaration, that the compact is not meant to be the measure of the powers of the General Government, but that it will proceed in the exercise over these States of all powers whatsoever: That they will view this as seizing the rights of the States and consolidating them in the hands of the General Government with a power assumed to bind the States (not merely in cases made federal) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent: That this would be to surrender the form of government we have chosen, and to live under one deriving its powers from its own will, and not from our authority; and that the co-States recurring to their natural right in cases not made federal, will concur in declaring these acts void and of no force, and will each unite with this commonwealth in requesting their repeal at the next session of Congress.

EDMUND BULLOCK, S. H. R.

JOHN CAMPBELL, S. S. P. T.

Passed the House of Representatives, Nov. 10th, 1798.

Attest,

THOMAS TODD, C. H. R.

IN SENATE, November 13th, 1798, unanimously concurred in.

Attest, B. THRUSTON, Clk. Sen.

Approved, November 16th, 1798.

JAMES GARRARD, G. K.

BY THE GOVERNOR,

HARRY TOULMIN.

Secretary of State.





**VIRGINIA.**  
**HOUSE OF DELEGATES.**

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**REPORT**

**Of the committee to whom were referred the communications of various States, relative to the Resolutions of the last General Assembly of this State, concerning the Alien and Sedition Laws.**

Whatever room might be found in the proceedings of some of the States, who have disapproved of the resolutions of the General Assembly of this Commonwealth, passed on the 21st day of December, 1798, for painful remarks on the spirit and manner of those proceedings, it appears to the committee most consistent with the duty as well as dignity of the General Assembly, to hasten an oblivion of every circumstance which might be construed into a diminution of mutual respect, confidence and affection, among the members of the Union.

The committee have deemed it a more useful task to revise, with a critical eye, the resolutions which have met with this disapprobation; to examine fully the several objections and arguments which have appeared against them; and to inquire whether there be any errors of fact, of principle, or of reasoning, which the candor of the General Assembly ought to acknowledge and correct.

The first of the Resolutions is in the words following:

*Resolved, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this State, against every aggression, either foreign or domestic, and that they will support the Government of the United States in all measures warranted by the former.*

No unfavorable comment can have been made on the sentiments here expressed. To maintain and defend the Constitution of the

United States, and of their own State, against every aggression, both foreign and domestic, and to support the Government of the United States in all measures warranted by their Constitution, are duties which the General Assembly ought always to feel, and to which, on such an occasion, it was evidently proper to express their sincere and firm adherence.

*In their next resolution—The General Assembly most solemnly declares a warm attachment to the union of the States, to maintain which it pledges all its powers ; and that, for this end, it is their duty to watch over and oppose every infraction of those principles, which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence and the public happiness.*

The observation just made is equally applicable to this solemn declaration, of warm attachment to the Union, and this solemn pledge to maintain it; nor can any question arise among enlightened friends of the Union, as to the duty of watching over and opposing every infraction of those principles which constitute its basis, and a faithful observance of which can alone secure its existence, and the public happiness thereon depending.

The third resolution is in the words following:

*That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the Compact, to which the States are parties, as limited by the plain sense and intention of the Instrument constituting that Compact ; as no farther valid than they are authorised by the grants enumerated in that Compact ; and that, in case of a deliberate, palpable and dangerous exercise of other powers, not granted by the said Compact, the States who are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them.*

On this resolution the committee have bestowed all the attention which its importance merits: they have scanned it, not merely with a strict, but with a severe eye; and they feel confidence in pronouncing, that, in its just and fair construction, it is unexceptionably true in its several positions, as well as constitutional and conclusive in its inferences.

The resolution declares, *first*, that "it views the powers of the Federal Government as resulting from the compact to which the States are parties;" in other words, that the federal powers are derived from the Constitution, and that the Constitution is a compact to which the States are parties.

Clear as the position must seem, that the Federal powers are derived from the Constitution, and from that alone, the committee are not unapprised of a late doctrine, which opens another source of Federal powers, not less extensive and important than it is new and unexpected. The examination of this doctrine will be most conveniently connected with a review of a succeeding resolution. The committee satisfy themselves here with briefly remarking, that in all the cotemporary discussions and comments which the Constitution underwent, it was constantly justified and recommended, on the ground that the powers not given to the government were withheld from it; and that if any doubt could have existed on this subject, under the original text of the Constitution, it is removed, as far as words could remove it, by the 12th amendment, now a part of the Constitution, which expressly declares, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The other position involved in this branch of the resolution, namely, "that the States are parties to the Constitution or compact," is, in the judgment of the committee, equally free from objection. It is indeed true, that the term "States" is sometimes used in a vague sense, and sometimes in different senses, according to the subject to which it is applied. Thus, it sometimes means the separate sections of territory occupied by the political societies within each; sometimes the particular governments established by those societies; sometimes those societies as organized into those particular governments; and, lastly, it means the people composing those political societies, in their highest sovereign capacity. Although it might be wished that the perfection of language admitted less diversity in the signification of the same words, yet little inconveniency is produced by it, where the true sense can be collected with certainty from the different applications. In the present instance, whatever different constructions of the term "States," in the resolution, may have been entertained, all will at least concur in that last mentioned; because, in that

sense, the Constitution was submitted to the "States:" in that sense the "States" ratified it: and, in that sense of the term "States," they are consequently parties to the compact, from which the powers of the Federal Government result.

The next position is, that the General Assembly views the powers of the Federal Government, "as limited by the plain sense and intention of the instrument constituting that compact," and "as no farther valid than they are authorized by the grants therein enumerated." It does not seem possible that any just objection can lie against either of these clauses. The first amounts merely to a declaration that the compact ought to have the interpretation plainly intended by the parties to it; the other to a declaration that it ought to have the execution and effect intended by them. If the powers granted, be valid, it is solely because they are granted: and, if the granted powers are valid, because granted, all other powers not granted, must not be valid.

The resolution, having taken this view of the Federal compact, proceeds to infer, "that, in case of a deliberate, palpable and dangerous exercise of other powers, not granted by the said compact, the States, who are parties thereto, have the right, and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them."

It appears to your committee to be a plain principle, founded in common sense, illustrated by common practice, and essential to the nature of compacts, that where resort can be had to no tribunal, superior to the authority of the parties, the parties themselves must be the rightful judges in the last resort, whether the bargain made has been pursued or violated. The Constitution of the United States was formed by the sanction of the States, given by each in its sovereign capacity. It adds to the stability and dignity, as well as to the authority of the Constitution, that it rests on this legitimate and solid foundation. The States, then, being the parties to the Constitutional compact, and in their sovereign capacity, it follows of necessity, that there can be no tribunal above their authority, to decide in the last resort, whether the compact made by them be violated; and, consequently, that, as the parties to it, they must themselves decide, in the last resort. such questions as may be of sufficient magnitude to require their interposition.

It does not follow, however, that because the States, as sovereign parties to their Constitutional compact, must ultimately decide whether it has been violated, that such a decision ought to be interposed, either in a hasty manner, or on doubtful and inferior occasions. Even in the case of ordinary conventions between different nations, where, by the strict rule of interpretation, a breach of a part may be deemed a breach of the whole; every part being deemed a condition of every other part, and of the whole, it is always laid down that the breach must be both wilful and material to justify an application of the rule. But in the case of an intimate and Constitutional Union, like that of the United States, it is evident that the interposition of the parties, in their sovereign capacity, can be called for by occasions only, deeply and essentially affecting the vital principles of their political system.

The resolution has accordingly guarded against any misapprehension of its object, by expressly requiring for such an interposition, "the case of a *deliberate, palpable* and *dangerous* breach of the Constitution, by the exercise of *powers not granted* by it." It must be a case, not of a light and transient nature, but of a nature *dangerous* to the great purposes for which the Constitution was established. It must be a case, moreover, not obscure or doubtful in its construction, but plain and *palpable*. Lastly, it must be a case not resulting from a partial consideration, or hasty determination; but a case stamped with a final consideration and *deliberate* adherence. It is not necessary, because the resolution does not require that the question should be discussed, how far the exercise of any particular power, ungranted by the Constitution, would justify the interposition of the parties to it. As cases might easily be stated, which none would contend ought to fall within that description; cases, on the other hand, might, with equal ease, be stated, so flagrant and so fatal, as to unite every opinion in placing them within the description.

But the resolution has done more than guard against misconstruction, by expressly referring to cases of a *deliberate, palpable* and *dangerous* nature. It specifies the object of the interposition which it contemplates, to be solely that of arresting the progress of the *evil* of usurpation, and of maintaining the authorities, rights and liberties appertaining to the States, as parties to the constitution.

From this view of the resolution, it would seem inconceivable that it can incur any just disapprobation from those, who laying aside all momentary impressions, and recollecting the genuine source and object of the Federal Constitution, shall candidly and accurately interpret the meaning of the General Assembly. If the deliberate exercise of dangerous powers, palpably withheld by the Constitution, could not justify the parties to it, in interposing even so far as to arrest the progress of the evil, and thereby to preserve the Constitution itself, as well as to provide for the safety of the parties to it; there would be an end to all relief from usurped power, and a direct subversion of the rights specified or recognized under all the State Constitutions, as well as a plain denial of the fundamental principle on which our independence itself was declared.

But it is objected, that the judicial authority is to be regarded as the sole expositor of the Constitution, in the last resort; and it may be asked for what reason, the declaration by the General Assembly, supposing it to be theoretically true, could be required at the present day and in so solemn a manner.

On this objection it might be observed *first* : that there may be instances of usurped power, which the forms of the Constitution would never draw within the control of the judicial department: *secondly*, that if the decision of the judiciary be raised above the authority of the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the judiciary, must be equally authoritative and final with the decisions of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases, in which all the forms of the Constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers, not delegated, may not only be usurped and executed by the other departments, but that the judicial department also may exercise or sanction dangerous powers beyond the grant of the Constitution; and consequently, that the ultimate right of the parties to the Constitution, to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority, as well as by another; by the judiciary, as well as by the executive, or the Legislature.

However true, therefore, it may be that the judicial department is, in all questions submitted to it by the forms of the Constitution, to decide in the last resort, this resort must necessarily be deemed the last in relation to the authorities of the other departments of the government; not in relation to the rights of the parties to the constitutional compact, from which the judicial as well as the other departments hold their delegated trusts. On any other hypothesis, the delegation of judicial power would annul the authority delegating it; and the concurrence of this department with the others in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution, which all were instituted to preserve.

The truth declared in the resolution being established, the expediency of making the declaration at the present day, may safely be left to the temperate consideration and candid judgment of the American public. It will be remembered, that a frequent recurrence to fundamental principles, is solemnly enjoined by most of the State Constitutions, and particularly by our own, as a necessary safeguard against the danger of degeneracy to which republics are liable, as well as other governments, though in a less degree than others. And a fair comparison of the political doctrines not unfrequent at the present day, with those which characterized the epoch of our revolution, and which form the basis of our republican Constitutions, will best determine whether the declaratory recurrence here made to those principles, ought to be viewed as unseasonable and improper, or as a vigilant discharge of an important duty. The authority of the Constitutions over governments, and of the sovereignty of the people over Constitutions, are truths which are at all times necessary to be kept in mind; and at no time perhaps more necessary than at the present.

*The fourth resolution stands as follows:*

*That the General Assembly doth also express its deep regret, that a spirit has in sundry instances, been manifested by the Federal Government, to enlarge its powers by forced constructions of the Constitutional charter, which defines them; and that indications have appeared of a design to expound certain general phrases, (which, having been copied from the very limited grant of powers in the former articles of confederation, were less liable to be misconstrued,) so as to destroy the meaning and effect of the particular enumeration*



*which necessarily explains, and limits the general phrases; and so as to consolidate the States by degrees, into one sovereignty, the obvious tendency and inevitable result of which would be, to transform the present republican system of the United States, into an absolute, or at best, a mixed monarchy.*

The *first* question here to be considered, is, whether a spirit has in sundry instances been manifested by the Federal Government to enlarge its powers by forced constructions of the constitutional charter.

The General Assembly having declared their opinion merely by regretting in general terms that forced constructions for enlarging the federal powers have taken place, it does not appear to the committee necessary to go into a specification of every instance to which the resolution may allude. The Alien and Sedition Acts being particularly named in a succeeding resolution, are of course to be understood as included in the allusion. Omitting others which have less occupied public attention, or been less extensively regarded as unconstitutional, the resolution may be presumed to refer particularly to the bank law, which from the circumstances of its passage, as well as the latitude of construction on which it is founded, strikes the attention with singular force; and the carriage tax, distinguished also by circumstances in its history having a similar tendency. Those instances alone, if resulting from forced construction and calculated to enlarge the powers of the Federal Government, as the committee cannot but conceive to be the case, sufficiently warrant this part of the resolution. The committee have not thought it incumbent on them to extend their attention to laws which have been objected to, rather as varying the constitutional distribution of powers in the Federal Government, than as an absolute enlargement of them; because instances of this sort, however important in their principles and tendencies, do not appear to fall strictly within the text under review.

The other questions presenting themselves, are—1. Whether indications have appeared of a design to expound certain general phrases copied from the “Articles of Confederation,” so as to destroy the effect of the particular enumeration explaining and limiting their meaning. 2. Whether this exposition would by degrees consolidate the States into one sovereignty. 3. Whether the ten-

dency and result of this consolidation would be to transform the republican system of the United States into a monarchy.

1. The general phrases here meant must be those “ of providing for the common defence and general welfare.”

In the “ Articles of Confederation,” the phrases are used as follows, in art. VIII. “ All charges of war, and all other expenses that shall be incurred *for the common defence and general welfare*, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to, or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled, shall from time to time direct and appoint,”

In the existing Constitution, they make the following part of Sec. 8. “ The Congress shall have power, to lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defence and general welfare of the United States.”

This similarity in the use of these phrases in the two great federal charters might well be considered as rendering their meaning less liable to be misconstrued in the latter; because it will scarcely be said, that in the former they were ever understood to be either a general grant of power, or to authorise the requisition or application of money by the old Congress to the common defence and general welfare, except in the cases afterwards enumerated, which explained and limited their meaning; and if such was the limited meaning attached to these phrases in the very instrument revised and re-modelled by the present Constitution, it can never be supposed that when copied into this Constitution, a different meaning ought to be attached to them.

That, notwithstanding this remarkable security against misconstruction, a design has been indicated to expound these phrases in the Constitution, so as to destroy the effect of the particular enumeration of powers by which it explains and limits them, must have fallen under the observation of those who have attended to the course of public transactions. Not to multiply proofs on this subject, it will suffice to refer to the Debates of the Federal Legisla-

ture, in which arguments have on different occasions been drawn, with apparent effect, from these phrases, in their indefinite meaning.

To these indications might be added, without looking farther, the official report on manufactures, by the late Secretary of the Treasury, made on the 5th of December, 1791; and the report of a committee of Congress, in January, 1797, on the promotion of Agriculture. In the first of these it is expressly contended to belong "to the discretion of the National Legislature to pronounce upon the objects which concern the *general welfare*, and for which, under that description, an appropriation of money is requisite and proper. And there seems to be no room for a doubt that whatever concerns the general interests of LEARNING, of AGRICULTURE, of MANUFACTURES, and of COMMERCE, are within the sphere of the National Councils, *as far as regards an application of money.*" The latter report assumes the same latitude of power in the National Councils, and applies it to the encouragement of Agriculture, by means of a society to be established at the seat of government. Although neither of these reports may have received the sanction of a law carrying it into effect; yet, on the other hand, the extraordinary doctrine contained in both, has passed without the slightest positive mark of disapprobation from the authority to which it was addressed.

Now, whether the phrases in question be construed to authorise every measure relating to the common defence and general welfare, as contended by some; or every measure only in which there might be an application of money, as suggested by the caution of others; the effect must substantially be the same, in destroying the import and force of the particular enumeration of powers which follow these general phrases in the Constitution. For, it is evident, that there is not a single power whatever, which may not have some reference to the common defence, or the general welfare; nor a power of any magnitude, which, in its exercise, does not involve or admit an application of money. The Government, therefore, which possesses power in either one or other of these extents, is a Government without the limitations formed by a particular enumeration of powers; and consequently, the meaning and effect of this particular enumeration is destroyed by the exposition given to these general phrases.

This conclusion will not be affected by an attempt to qualify the power over the "general welfare," by referring it to cases where the *general welfare* is beyond the reach of *separate* provisions by the *individual States*; and leaving to these their jurisdictions in cases to which their separate provisions may be competent. For, as the authority of the individual States must in all cases be incompetent to general regulations operating through the whole, the authority of the United States would be extended to every object relating to the general welfare, which might, by any possibility, be provided for by the general authority. This qualifying construction, therefore, would have little, if any tendency, to circumscribe the power claimed under the latitude of the terms "general welfare."

The true and fair construction of this expression, both in the original and existing Federal compacts, appears to the committee too obvious to be mistaken. In both, the Congress is authorised to provide money for the common defence and *general welfare*. In both, is subjoined to this authority, an enumeration of the cases to which their powers shall extend. Money cannot be applied to the *general welfare*, otherwise than by an application of it to some *particular* measure, conducive to the general welfare. Whenever, therefore, money has been raised by the general authority, and is to be applied to a particular measure, a question arises, whether the particular measure be within the enumerated authorities vested in Congress. If it be, the money requisite for it may be applied to it; if it be not, no such application can be made. This fair and obvious interpretation coincides with, and is enforced by, the clause in the Constitution, which declares, that "no money shall be drawn from the Treasury, but in consequence of appropriations by law." An appropriation of money to the general welfare would be deemed rather a mockery than an observance of this Constitutional injunction.

2. Whether the exposition of the general phrases here combated would not, by degrees, consolidate the States into one sovereignty, is a question, concerning which the committee can perceive little room for difference of opinion. To consolidate the States into one sovereignty, nothing more can be wanted, than to supersede their respective sovereignties in the cases reserved to them, by extending the sovereignty of the United States to all cases of the "general welfare," that is to say, to *all cases whatever*.

3. That the obvious tendency and inevitable result of a consolidation of the States into one sovereignty, would be to transform the republican system of the United States into a monarchy, is a point which seems to have been sufficiently decided by the general sentiment of America. In almost every instance of discussion, relating to the consolidation in question, its certain tendency to pave the way to monarchy seems not to have been contested. The prospect of such a consolidation has formed the only topic of controversy. It would be unnecessary, therefore, for the committee to dwell long on the reasons which support the position of the General Assembly. It may not be improper, however, to remark two consequences, evidently flowing from an extension of the Federal powers to every subject falling within the idea of the "general welfare."

One consequence must be, to enlarge the sphere of discretion allotted to the Executive Magistrate. Even within the Legislative limits, properly defined by the Constitution, the difficulty of accommodating legal regulations to a country so great in extent and so various in its circumstances, has been much felt; and has led to occasional investments of power in the Executive, which involve perhaps as large a portion of discretion as can be deemed consistent with the nature of the Executive trust. In proportion as the objects of Legislative care might be multiplied, would the time allowed for each be diminished, and the difficulty of providing uniform and particular regulations for all be increased. From these sources would necessarily ensue a greater latitude to the agency of that department which is always in existence, and which could best mould regulations of a general nature, so as to suit them to the diversity of particular situations. And it is in this latitude, as a supplement to the deficiency of the laws, that the degree of Executive prerogative materially consists.

The other consequence would be, that of an excessive augmentation of the offices, honors and emoluments depending on the Executive will. Add to the present legitimate stock, all those of every description which a consolidation of the States would take from them, and turn over to the Federal Government, and the patronage of the Executive would necessarily be as much swelled in this case as its prerogative would be in the other.

This disproportionate increase of prerogative and patronage, must, evidently, either enable the Chief Magistrate of the Union by quiet means to secure his re-election from time to time, and finally, to regulate the succession as he might please; or, by giving so transcendent an importance to the office, would render the elections to it so violent and corrupt, that the public voice itself might call for an hereditary in place of an elective succession. Which-ever of these events might follow the transformation of the republican system of the United States into a monarchy, anticipated by the General Assembly from a consolidation of the States into one sovereignty, would be equally accomplished; and whether it would be into a mixed or an absolute monarchy, might depend on too many contingencies to admit of any certain foresight.

The resolution next in order is contained in the following terms:

*That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts," passed at the last session of Congress; the first of which exercises a power no where delegated to the Federal Government, and which, by uniting Legislative and Judicial powers to those of Executive, subverts the general principles of a free government, as well as the particular organization and positive provisions of the Federal Constitution; and the other of which acts exercises, in like manner, a power not delegated by the Constitution; but, on the contrary, expressly and positively forbidden by one of the amendments thereto: a power which, more than any other, ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.*

The subject of this resolution having, it is presumed, more particularly led the General Assembly into the proceedings which they communicated to the other States, and being in itself of peculiar importance, it deserves the most critical and faithful investigation, for the length of which no other apology will be necessary.

The subject divides itself into, *first*, "The Alien Act;" *secondly*, "The Sedition Act."



Of the "Alien Act," it is affirmed by the resolution, 1st. That it exercises a power nowhere delegated to the Federal Government. 2d. That it unites Legislative and Judicial powers to those of the Executive. 3d. That this union of power subverts the general principles of free government. 4th. That it subverts the particular organization and positive provisions of the Federal Constitution.

In order to clear the way for a correct view of the first position, several observations will be premised.

In the first place; it is to be borne in mind, that it being a characteristic feature of the Federal Constitution, as it was originally ratified, and an amendment thereto having precisely declared, "That the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" it is incumbent in this, as in every other exercise of power by the Federal Government, to prove from the Constitution, that it grants the particular power exercised.

The next observation to be made, is, that much confusion and fallacy, have been thrown into the question, by blending the two cases of *aliens, members of a hostile nation*; and *aliens, members of friendly nations*. These two cases are so obviously, and so essentially distinct, that it occasions no little surprise that the distinction should have been disregarded: and the surprise is so much the greater, as it appears that the two cases are actually distinguished by two separate acts of Congress, passed at the same session, and comprised in the same publication; the one providing for the case of "alien enemies;" the other "concerning aliens" indiscriminately; and consequently extending to aliens of every nation in peace and amity with the United States. With respect to alien enemies, no doubt has been intimated as to the Federal authority over them; the Constitution having expressly delegated to Congress the power to declare war against any nation, and of course to treat it and all its members as enemies. With respect to aliens, who are not enemies, but members of nations in peace and amity with the United States, the power assumed by the act of Congress, is denied to be Constitutional; and it is accordingly against this act, that the protest of the General Assembly is expressly and exclusively directed.

A third observation is, that were it admitted, as is contended, that the "act concerning Aliens," has for its object, not a *penal*, but a *preventive* justice; it would still remain to be proved that it comes within the Constitutional power of the Federal Legislature: and if within its power, that the Legislature has exercised it in a Constitutional manner.

In the administration of preventive justice, the following principles have been held sacred; that some probable ground of suspicion be exhibited before some Judicial authority; that it be supported by oath or affirmation; that the party may avoid being thrown into confinement, by finding pledges or sureties for his legal conduct sufficient in the judgment of some Judicial authority; that he may have the benefit of a writ of habeas corpus, and thus obtain his release, if wrongfully confined; and that he may at any time be discharged from his recognizance, or his confinement, and restored to his former liberty and rights, on the order of the proper Judicial authority, if it shall see sufficient cause.

All these principles of the only preventive justice known to American jurisprudence, are violated by the Alien act. The ground of suspicion is to be judged of, not by any Judicial authority, but by the Executive Magistrate alone: no oath or affirmation is required; if the suspicion be held reasonable by the President, he may order the suspected Alien to depart the territory of the United States, without the opportunity of avoiding the sentence, by finding pledges for his future good conduct; as the President may limit the time of departure as he pleases, the benefit of the writ of habeas corpus, may be suspended with respect to the party, although the Constitution ordains, that it shall not be suspended, unless when the public safety may require it in case of rebellion or invasion, neither of which existed at the passage of the act; and the party being, under the sentence of the President, either removed from the United States; or being punished by imprisonment, or disqualification ever to become a citizen on conviction of not obeying the order of removal, he cannot be discharged from the proceedings against him, and restored to the benefits of his former situation, although the *highest Judicial authority* should see the most sufficient cause for it.

But, in the last place, it can never be admitted, that the removal of Aliens; authorised by the act, is to be considered, not as punish-



ment for an offence; but as a measure of precaution and prevention. If the banishment of an alien from a country into which he has been invited, as the asylum most auspicious to his happiness; a country, where he may have formed the most tender connections, where he may have vested his entire property, and acquired property of the real and permanent, as well as the moveable and temporary kind; where he enjoys under the laws, a greater share of the blessings of personal security and personal liberty, than he can elsewhere hope for, and where he may have nearly completed his probationary title to citizenship; if, moreover, in the execution of the sentence against him, he is to be exposed, not only to the ordinary dangers of the sea, but to the peculiar casualties incident to a crisis of war, and of unusual licentiousness on that element, and possibly to vindictive purposes which his emigration itself may have provoked; if a banishment of this sort be not a punishment, and among the severest of punishments, it will be difficult to imagine a doom to which the name can be applied. And if it be a punishment, it will remain to be inquired, whether it can be constitutionally inflicted, on mere suspicion, by the single will of the Executive Magistrate, on persons convicted of no personal offence against the laws of the land, nor involved in any offence against the law of nations, charged on the foreign state of which they are members.

One argument offered in justification of this power exercised over Aliens, is, that the admission of them into the country being of favor, not of right, the favor is at all times revocable.

To this argument it might be answered, that allowing the truth of the inference, it would be no proof of what is required. A question would still occur, whether the Constitution had vested the discretionary power of admitting Aliens, in the Federal Government or in the State Governments.

But it cannot be a true inference, that because the admission of an Alien is a favor, the favor may be revoked at pleasure. A grant of land to an individual, may be of favor, not of right; but the moment the grant is made, the favor becomes a right, and must be forfeited before it can be taken away. To pardon a malefactor may be a favor, but the pardon is not, on that account, the less irrevocable. To admit an Alien to naturalization, is as much a favor, as to admit him to reside in the country; yet it cannot be pre-

tended, that a person naturalized can be deprived of the benefit, any more than a native citizen can be disfranchised.

Again, it is said, that Aliens not being parties to the Constitution, the rights and privileges which it secures, cannot be at all claimed by them,

To this reasoning also, it might be answered, that although Aliens are not parties to the Constitution, it does not follow that the Constitution has vested in Congress an absolute power over them. The parties to the Constitution may have granted, or retained, or modified the power over Aliens, without regard to that particular consideration.

But a more direct reply is, that it does not follow, because Aliens are not parties to the Constitution, as citizens are parties to it, that whilst they actually conform to it, they have no right to its protection. Aliens are not more parties to the laws, than they are parties to the Constitution; yet, it will not be disputed, that as they owe on one hand, a temporary obedience, they are entitled in return to their protection and advantage.

If Aliens had no rights under the Constitution, they might not only be banished, but even capitally punished, without a jury or the other incidents to a fair trial. But so far has a contrary principle been carried, in every part of the United States, that except on charges of treason, an Alien has, besides all the common privileges, the special one of being tried by a jury, of which one-half may be also Aliens.

It is said, further, that by the law and practice of nations, Aliens may be removed at discretion, for offences against the law of nations; that Congress are authorised to define and punish such offences; and that to be dangerous to the peace of society is, in Aliens, one of those offences.

The distinction between Alien enemies and Alien friends, is a clear and conclusive answer to this argument. Alien enemies are under the law of nations, and liable to be punished for offences against it. Alien friends, except in the single case of public ministers, are under the municipal law, and must be tried and punished according to that law only.

This argument also, by referring the Alien act, to the power of Congress to define and *punish* offences against the law of nations, yields the point that the act is of a *penal*, not merely of a preventive operation. It must, in truth, be so considered. And if it be a penal act, the punishment it inflicts, must be justified by some offence that deserves it.

Offences for which Aliens, within the jurisdiction of a country, are punishable, are first, offences committed by the nation of which they make a part, and in whose offences they are involved: Secondly, offences committed by themselves alone, without any charge against the nation to which they belong. The first is the case of Alien enemies; the second, the case of Alien friends. In the first case, the offending nation can no otherwise be punished than by war, one of the laws which authorises the expulsion of such of its members, as may be found within the country, against which the offence has been committed. In the second case, the offence being committed by the individual, not by his nation, and against the municipal law, not against the law of nations; the individual only, and not the nation, is punishable; and the punishment must be conducted according to the municipal law, not according to the law of nations. Under this view of the subject, the act of Congress, for the removal of Alien enemies, being conformable to the law of nations, is justified by the Constitution: and the "act," for the removal of Alien friends, being repugnant to the Constitutional principles of municipal law, is unjustifiable.

Nor is the act of Congress, for the removal of Alien friends, more agreeable to the general practice of nations, than it is within the purview of the law of nations. The general practice of nations, distinguishes between Alien friends and alien enemies. The latter it has proceeded against, according to the law of nations, by expelling them as enemies. The former it has considered as under a local and temporary allegiance, and entitled to a correspondent protection. If contrary instances are to be found in barbarous countries, under undefined prerogatives, or amid revolutionary dangers; they will not be deemed fit precedents for the government of the United States, even, if not beyond its Constitutional authority.

It is said, that Congress may grant letters of marque and reprisal; that reprisals may be made on persons, as well as property; and that the removal of Aliens may be considered as the exercise in an inferior degree, of the general power of reprisal on persons.

Without entering minutely into a question that does not seem to require it, it may be remarked, that reprisal is a seizure of foreign persons or property, with a view to obtain that justice for injuries done by one State or its members, to another State or its members; for which, a refusal of the aggressor requires such a resort to force under the law of nations. It must be considered as an abuse of words to call the removal of persons from a country, a seizure or reprisal on them; nor is the distinction to be overlooked between reprisals on persons within the country and under the faith of its laws, and on persons out of the country. But laying aside these considerations; it is evidently impossible to bring the Alien act within the power of granting reprisals; since it does not allege or imply any injury received from any particular nation, for which this proceeding against its members was intended as a reparation. The proceeding is authorized against Aliens of *every nation*; of nations charged neither with any similar proceeding against American citizens, nor with any injuries for which justice might be sought, in the mode prescribed by the act. Were it true, therefore, that good causes existed for reprisals against one or more foreign nations, and that neither the persons nor property of its members, under the faith of our laws, could plead an exemption; the operation of the act ought to have been limited to the Aliens among us, belonging to such nations. To license reprisals against all nations, for aggressions charged on one only, would be a measure as contrary to every principle of justice and public law, as to a wise policy and the universal practice of nations.

It is said, that the right of removing Aliens is an incident to the power of war, vested in Congress by the Constitution.

This is a former argument in a new shape only; and is answered by repeating, that the removal of Alien enemies is an incident to the power of war; that the removal of Alien friends is not an incident to the power of war.

It is said, that Congress are by the Constitution to protect each State against invasion; and that the means of *preventing* invasion are included in the power of protection against it.

The power of war in general, having been before granted by the Constitution; this clause must either be a mere specification for greater caution and certainty, of which there are other examples

in the instrument; or be the injunction of a duty superadded to a grant of the power. Under either explanation, it cannot enlarge the powers of Congress on the subject. The power and the duty to protect each State against an invading enemy, would be the same under the general power, if this regard to greater caution had been omitted.

Invasion is an operation of war. To protect against invasion is an exercise of the power of war. A power, therefore, not incident to war, cannot be incident to a particular modification of war. And as the removal of Alien friends has appeared to be no incident to a general state of war, it cannot be incident to a partial state, or a particular modification of war.

Nor can it ever be granted, that a power to act on a case when it actually occurs, includes a power over all the means that may *tend to prevent* the occurrence of the case. Such a latitude of construction would render unavailing every practicable definition of particular and limited powers. Under the idea of preventing war in general, as well as invasion in particular, not only an indiscriminate removal of all aliens might be enforced, but a thousand other things still more remote from the operations and precautions appurtenant to war, might take place. A bigotted or tyrannical nation might threaten us with war, unless certain religious or political regulations were adopted by us; yet it never could be inferred, if the regulations which would prevent war, were such as Congress had otherwise no power to make, that the power to make them would grow out of the purpose they were to answer. Congress have power to suppress insurrections, yet it would not be allowed to follow, that they might employ all the means tending to prevent them; of which a system of moral instruction for the ignorant, and of provident support for the poor, might be regarded as among the most efficacious.

One argument for the power of the General Government to remove aliens, would have been passed in silence, if it had appeared under any authority inferior to that of a report, made during the last session of Congress to the House of Representatives, by a committee, and approved by the House. The doctrine on which this argument is founded, is of so new and so extraordinary a character, and strikes so radically at the political system of America, that it is proper to state it in the very words of the report.

“ The act [concerning aliens,) is said to be unconstitutional, because to remove aliens is a direct breach of the Constitution, which provides, by the 9th section of the 1st article, that the migration or importation of such persons as any of the States shall think proper to admit, shall not be prohibited by the Congress, prior to the year 1808.

Among the answers given to this objection to the constitutionality of the act, the following very remarkable one is extracted.

“ Thirdly, That as the Constitution has *given to the States*, no power to remove aliens, during the period of the limitation under consideration, in the mean time, on the construction assumed, there would be no authority in the country empowered to send away dangerous aliens, which cannot be admitted.”

The reasoning here used would not, in any view, be conclusive; because there are powers exercised by most other governments, which in the United States are withheld by the people, both from the General Government and from the State Governments. Of this sort are many of the powers prohibited by the declarations of right prefixed to the Constitutions, or by the clauses in the Constitutions, in the nature of such declarations. Nay, so far is the political system of the United States distinguishable from that of other countries, by the caution with which powers are delegated and defined; that in one very important case, even of commercial regulation and revenue, the power is absolutely locked up against the hands of both Governments. A tax on exports can be laid by no constitutional authority whatever. Under a system thus peculiarly guarded, there could surely be no absurdity in supposing, that alien friends, who if guilty of treasonable machinations may be punished, or if suspected on probable grounds, may be secured by pledges or imprisonment, in like manner with permanent citizens, were never meant to be subjected to banishment by any arbitrary and unusual process, either under the one Government or the other.

But it is not the inconclusiveness of the general reasoning in this passage, which chiefly calls the attention to it. It is the principle assumed by it, that the powers held by the States, are given to them by the Constitution of the United States; and the inference from this principle, that the powers supposed to be ne-

cessary which are not so given to the State Governments, must reside in the Government of the United States.

The respect which is felt for every portion of the constituted authorities, forbids some of the reflections which this singular paragraph might excite, and they are the more readily suppressed, as it may be presumed, with justice perhaps, as well as candor, that inadvertence may have had its share in the error. It would be an unjustifiable delicacy, nevertheless, to pass by so portentous a claim, proceeding from so high an authority, without a monitory notice of the fatal tendencies with which it would be pregnant.

Lastly, it is said, that a law on the same subject with the Alien act, passed by this State originally in 1785, and re-enacted in 1792, is a proof that a summary removal of suspected aliens, was not heretofore regarded by the Virginia Legislature, as liable to the objections now urged against such a measure.

This charge against Virginia vanishes before the simple remark, that the law of Virginia relates to "suspicious persons being the subjects of any foreign power or state, who shall have *made a declaration of war, or actually commenced hostilities, or from whom the President shall apprehend hostile designs;*" whereas the act of Congress relates to Aliens, being the subjects of foreign powers and states, who have *neither declared war, nor commenced hostilities, nor from whom hostile designs are apprehended.*

II. It is next affirmed of the Alien act, that it unites Legislative, Judicial, and Executive powers in the hands of the President.

However difficult it may be to mark, in every case, with clearness and certainty, the line which divides legislative power, from the other departments of power; all will agree, that the powers referred to these departments may be so general and undefined, as to be of a Legislative, not of an Executive or Judicial nature; and may for that reason be unconstitutional. Details, to a certain degree, are essential to the nature and character of a law; and on criminal subjects, it is proper that details should leave as little as possible to the discretion of those who are to apply and to execute the law. If nothing more were required, in exercising a Legislative trust, than a general conveyance of authority, without laying down any precise rules, by which the authority conveyed should be carried into effect; it would follow that the whole power of le-



gislation might be transferred by the Legislature from itself, and proclamations might become substitutes for laws. A delegation of power in this latitude, would not be denied to be a union of the different powers.

To determine, then, whether the appropriate powers of the distinct departments are united by the act authorizing the Executive to remove Aliens, it must be inquired whether it contains such details, definitions and rules, as appertain to the true character of a law; especially a law by which personal liberty is invaded, property deprived of its value to the owner, and life itself indirectly exposed to danger.

The Alien Act declares "that it shall be lawful for the President to order all such aliens as he shall judge *dangerous* to the peace and safety of the United States, or shall have reasonable ground to *suspect*, are concerned in any treasonable or *secret machinations*, against the government thereof, to depart," &c.

Could a power be well given in terms less definite, less particular, and less precise? To be *dangerous to the public safety*; to be *suspected of secret machinations* against the government: these can never be mistaken for legal rules or certain definitions. They leave every thing to the President. His will is the law.

But, it is not a legislative power only that is given to the President. He is to stand in the place of the Judiciary also. His suspicion is the only evidence which is to convict: his order, the only judgment which is to be executed.

Thus, it is, the President whose will is to designate the offensive conduct; it is his will that is to ascertain the individuals on whom it is charged; and it is his will, that is to cause the sentence to be executed. It is rightly affirmed, therefore, that the act unites Legislative and Judicial powers to those of the Executive.

III. It is affirmed, that this union of power subverts the general principles of free government.

It has become an axiom in the science of government, that a separation of the Legislative, Executive, and Judicial departments, is necessary to the preservation of public liberty. No where has this



axiom been better understood in theory, or more carefully pursued in practice, than in the United States.

IV. It is affirmed that such a union of powers subverts the particular organization and positive provisions of the Federal Constitution.

According to the particular organization of the Constitution, its Legislative powers are vested in the Congress, its Executive powers in the President, and its Judicial powers in a supreme and inferior tribunals. The union of any two of these powers, and still more of all three, in any one of these departments, as has been shewn to be done by the Alien Act, must consequently subvert the constitutional organization of them.

That positive provisions, in the Constitution, securing to individuals the benefits of fair trial, are also violated by the union of powers in the Alien Act, necessarily results from the two facts, that the act relates to alien friends, and that Alien friends being under the municipal law only, are entitled to its protection.

The *second* object against which the resolution protests, is the Sedition Act.

Of this act it is affirmed, 1. That it exercises in like manner a power not delegated by the Constitution. 2. That the power, on the contrary, is expressly and positively forbidden by one of the amendments to the Constitution. 3. That this is a power, which more than any other ought to produce universal alarm; because it is levelled against that right of freely examining public characters and measures, and of free communication thereon, which has ever been justly deemed the only effectual guardian of every other right.

1. That it exercises a power not delegated by the Constitution.

Here again, it will be proper to recollect, that the Federal Government being composed of powers specifically granted with a reservation of all others to the States or to the people, the positive authority under which the Sedition Act could be passed must be produced by those who assert its constitutionality. In what part of the Constitution, then, is this authority to be found?

Several attempts have been made to answer this question, which will be examined in their order. The committee will begin with one, which has filled them with equal astonishment and apprehension; and which, they cannot but persuade themselves, must have the same effect on all, who will consider it with coolness and impartiality, and with a reverence for our Constitution, in the true character in which it issued from the sovereign authority of the people. The committee refer to the doctrine lately advanced as a sanction to the Sedition Act; "that the common or unwritten law," a law of vast extent and complexity, and embracing almost every possible subject of legislation, both civil and criminal, makes a part of the law of these States, in their united and national capacity.

The novelty, and in the judgment of the committee, the extravagance of this pretension, would have consigned it to the silence, in which they have passed by other arguments, which an extraordinary zeal for the act has drawn into the discussion: But the auspices under which this innovation presents itself, have constrained the committee to bestow on it an attention, which other considerations might have forbidden.

In executing the task, it may be of use to look back to the colonial state of this country, prior to the revolution; to trace the effect of the revolution which converted the colonies into independent States; to inquire into the import of the articles of confederation, the first instrument by which the union of the States was regularly established; and finally, to consult the Constitution of 1788, which is the oracle that must decide the important question.

In the state prior to the revolution, it is certain that the common law under different limitations, made a part of the colonial codes. But whether it be understood that the original colonists brought the law with them, or made it their law by adoption; it is equally certain, that it was the separate law of each colony within its respective limits, and was unknown to them, as a law pervading and operating through the whole as one society.

It could not possibly be otherwise. The common law was not the same in any two of the colonies; in some, the modifications were materially and extensively different. There was no common Legislature, by which a common will could be expressed in

the form of a law; nor any common magistracy, by which such a law could be carried into practice. The will of each colony, alone and separately, had its organs for these purposes.

This stage of our political history, furnishes no foothold for the patrons of this new doctrine.

Did then the principle or operation of the great event which made the colonies independent States, imply or introduce the common law, as a law of the Union?

The fundamental principle of the revolution was, that the colonies were co-ordinate members with each other, and with Great Britain; of an empire, united by a common Executive sovereign, but not united by any common Legislative sovereign. The Legislative power was maintained to be as complete in each American Parliament, as in the British Parliament. And the royal prerogative was in force in each colony, by virtue of its acknowledging the King for its Executive magistrate, as it was in Great Britain, by virtue of a like acknowledgment there. A denial of these principles by Great Britain, and the assertion of them by America, produced the revolution.

There was a time indeed, when an exception to the Legislative separation of the several component and co-equal parts of the empire, obtained a degree of acquiescence. The British Parliament was allowed to regulate the trade with foreign nations, and between the different parts of the empire. This was, however, mere practice without right, and contrary to the true theory of the Constitution. The conveniency of some regulations, in both those cases, was apparent; and as there was no Legislature with power over the whole, nor any constitutional pre-eminence among the Legislatures of the several parts, it was natural for the Legislature of that particular part which was the eldest and the largest, to assume this function, and for the others to acquiesce in it. This tacit arrangement was the less criticised, as the regulations established by the British Parliament operated in favor of that part of the empire which seemed to bear the principal share of the public burdens, and were regarded as an indemnification of its advances for the other parts. As long as this regulating power was confined to the two objects of conveniency and equity, it was not complained of, nor much inquired into. But, no sooner was it perverted to the

selfish views of the party assuming it, than the injured parties began to feel and to reflect; and the moment the claim to a direct and indefinite power was ingrafted on the precedent of the regulating power, the whole charm was dissolved, and every eye opened to the usurpation. The assertion by G. B. of a power to make laws for the other members of the empire *in all cases whatsoever*, ended in the discovery, that she had a right to make laws for them *in no cases whatsoever*.

Such being the ground of our revolution, no support nor color can be drawn from it, for the doctrine that the common law is binding on these States as one society. The doctrine, on the contrary, is evidently repugnant to the fundamental principle of the revolution.

The articles of confederation are the next source of information on this subject.

In the interval between the commencement of the revolution and the final ratification of these articles, the nature and extent of the Union was determined by the circumstances of the crisis, rather than by any accurate delineation of the general authority. It will not be alleged, that the "common law" could have had any legitimate birth as a law of the United States during that state of things. If it came as such into existence at all, the charter of confederation must have been its parent.

Here again, however, its pretensions are absolutely destitute of foundation. This instrument does not contain a sentence or syllable that can be tortured into a countenance of the idea, that the parties to it were, with respect to the objects of the common law, to form one community. No such law is named or implied, or alluded to, as being in force, or as brought into force by that compact. No provision is made by which such a law could be carried into operation; whilst, on the other hand, every such inference or pretext is absolutely precluded by article 2d, which declares "that each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled."

Thus far it appears, that not a vestige of this extraordinary doctrine can be found in the origin or progress of American institu-

tions. The evidence against it has, on the contrary, grown stronger at every step, till it has amounted to a formal and positive exclusion, by written articles of compact among the parties concerned.

Is this exclusion revoked, and the common law introduced as a national law, by the present Constitution of the United States? This is the final question to be examined.

It is readily admitted, that particular parts of the common law may have a sanction from the Constitution, so far as they are necessarily comprehended in the technical phrases which express the powers delegated to the government; and so far also, as such other parts may be adopted by Congress as necessary and proper for carrying into execution the powers expressly delegated. But, the question does not relate to either of these portions of the common law. It relates to the common law beyond these limitations.

The only part of the Constitution which seems to have been relied on in this case, is the 2d sect. of art. III. "The Judicial power shall extend to all cases, *in law and equity*, arising *under this Constitution*, the laws of the United States, and Treaties made, or which shall be made under their authority."

It has been asked what cases, distinct from those arising under the laws and treaties of the United States, can arise under the Constitution, other than those arising under the common law; and it is inferred, that the common law is accordingly adopted or recognized by the Constitution.

Never, perhaps, was so broad a construction applied to a text so clearly unsusceptible of it. If any color for the inference could be found, it must be in the impossibility of finding any other cases in law and equity, within the provision of the Constitution, to satisfy the expression; and rather than resort to a construction affecting so essentially the whole character of the government, it would perhaps be more rational to consider the expression as a mere pleonasm or inadvertence. But, it is not necessary to decide on such a dilemma. The expression is fully satisfied, and its accuracy justified, by two descriptions of cases, to which the Judicial authority is extended, and neither of which implies that the common law is the law of the United States. One of these descriptions compre-

hends the cases growing out of the restrictions on the Legislative power of the States. For example, it is provided that "no State shall emit bills of credit," or "make any thing but gold and silver coin a tender in payment of debts." Should this prohibition be violated, and a suit *between citizens of the same State* be the consequence, this would be a case arising under the Constitution before the Judicial power of the United States. A second description comprehends suits between citizens and foreigners, or citizens of different States, to be decided according to the State or foreign laws; but submitted by the Constitution to the Judicial power of the United States; the Judicial power being, in several instances, extended beyond the Legislative power of the United States.

To this explanation of the text, the following observations may be added:

The expression, "cases in law and equity," is manifestly confined to cases of a civil nature; and would exclude cases of criminal jurisdiction. Criminal cases in law and equity would be a language unknown to the law.

The succeeding paragraph of the same section is in harmony with this construction. It is in these words: "In all cases affecting Ambassadors, other public Ministers, and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. *In all* the other cases [including cases in law and equity arising under the Constitution] the Supreme Court shall have *appellate* jurisdiction both as to law and *fact*; with such exceptions, and under such regulations, as Congress shall make."

This paragraph, by expressly giving an *appellate* jurisdiction, in cases of law and equity arising under the Constitution, to *fact*, as well as to law, clearly excludes criminal cases, where the trial by jury is secured; because the fact, in such cases, is not a subject of appeal. And, although the appeal is liable to such *exceptions* and regulations as Congress may adopt, yet it is not to be supposed that an *exception* of *all* criminal cases could be contemplated; as well because a discretion in Congress to make or omit the exception would be improper, as because it would have been unnecessary. The exception could as easily have been made by the Constitution itself, as referred to the Congress.

Once more; the amendment last added to the Constitution, deserves attention, as throwing light on this subject. "The Judicial power of the United States shall not be construed to extend to any suit in *law or equity*, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign power." As it will not be pretended that any criminal proceeding could take place against a State; the terms *law or equity*, must be understood as appropriate to *civil*, in exclusion of *criminal* cases.

From these considerations, it is evident, that this part of the Constitution, even if it could be applied at all, to the purpose for which it has been cited, would not include any cases whatever of a criminal nature; and consequently, would not authorise the inference from it, that the Judicial authority extends to *offences* against the common law, as offences arising under the Constitution.

It is further to be considered, that even if this part of the Constitution could be strained into an application to every common law case, criminal as well as civil, it could have no effect in justifying the Sedition Act: which is an exercise of Legislative, and not of Judicial power: and it is the Judicial power only, of which the extent is defined in this part of the Constitution.

There are two passages in the Constitution, in which a description of the law of the United States, is found. The first is contained in art. III. sec. 2, in the words following: "This Constitution, the laws of the United States, and treaties made, or which shall be made under their authority." The second is contained in the 2d paragraph of art. VI. as follows: "This Constitution and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." The first of these descriptions was meant as a guide to the Judges of the United States; the second as a guide to the Judges in the several States. Both of them consist of an enumeration, which was evidently meant to be precise and complete. If the common law had been understood to be a law of the United States, it is not possible to assign a satisfactory reason why it was not expressed in the enumeration.

In aid of these objections, the difficulties and confusion inseparable from a constructive introduction of the common law, would afford powerful reasons against it.



Is it to be the common law with, or without the British statutes?

If without the statutory amendments, the vices of the code would be insupportable!

If with these amendments, what period is to be fixed for limiting the British authority over our laws?

Is it to be the date of the eldest or the youngest of the Colonies?

Or are the dates to be thrown together, and a medium deduced?

Or is our independence to be taken for the date?

Is, again, regard to be had to the various changes in the common law made by the local codes of America?

Is regard to be had to such changes, subsequent, as well as prior, to the establishment of the Constitution?

Is regard to be had to future, as well as past changes?

Is the law to be different in every State, as differently modified by its code; or are the modifications of any particular State, to be applied to all?

And on the latter supposition, which among the State codes would form the standard?

Questions of this sort might be multiplied with as much ease, as there would be difficulty in answering them.

The consequences flowing from the proposed construction, furnish other objections equally conclusive; unless the text were peremptory in its meaning, and consistent with other parts of the instrument.

These consequences may be in relation to the Legislative authority of the United States; to the Executive authority; to the Judicial authority; and to the Governments of the several States.

If it be understood, that the common law is established by the Constitution, it follows that no part of the law can be altered by the Legislature; such of the statutes, already passed, as may be repugnant thereto, would be nullified; particularly the "Sedition Act" itself, which boasts of being a melioration of the common law; and the whole code, with all its incongruities, barbarisms, and bloody maxims, would be inviolably saddled on the good people of the United States.



Should this consequence be rejected, and the common law be held, like other laws, liable to revision and alteration, by the authority of Congress; it then follows, that the authority of Congress is co-extensive with the objects of common law; that is to say, with every object of Legislation: For, to every such object, does some branch or other of the common law extend. The authority of Congress would, therefore, be no longer under the limitations, marked out in the Constitution. They would be authorised to legislate in all cases whatsoever.

In the next place, as the President possesses the executive powers of the Constitution, and is to see that the laws be faithfully executed, his authority also must be co-extensive with every branch of the common law. The additions which this would make to his power, though not readily to be estimated, claim the most serious attention.

This is not all; it will merit the most profound consideration, how far an indefinite admission of the common law, with a latitude in construing it, equal to the construction by which it is deduced from the Constitution, might draw after it the various prerogatives making part of the unwritten law of England. The English Constitution itself is nothing more than a composition of unwritten laws and maxims.

In the third place, whether the common law be admitted as of legal or of Constitutional obligation, it would confer on the Judicial department a discretion little short of a Legislative power.

On the supposition of its having a constitutional obligation, this power in the Judges would be permanent and irremediable by the Legislature. On the other supposition, the power would not expire until the Legislature should have introduced a full system of statutory provisions. Let it be observed, too, that besides all the uncertainties above enumerated, and which present an immense field for judicial discretion, it would remain with the same department to decide what parts of the common law would, and what would not, be properly applicable to the circumstances of the United States.

A discretion of this sort has always been lamented as incongruous and dangerous, even in the Colonial and State courts; although so much narrowed by positive provisions in the local codes on all

the principal subjects embraced by the common law. Under the United States, where so few laws exist on those subjects, and where so great a lapse of time must happen before the vast chasm could be supplied, it is manifest that the power of the Judges over the law, would, in fact, erect them into Legislators; and, that for a long time, it would be impossible for the citizens to conjecture, either what was, or would be law.

In the last place, the consequence of admitting the common law as the law of the United States, on the authority of the individual States, is as obvious as it would be fatal. As this law relates to every subject of Legislation, and would be paramount to the Constitutions and laws of the States; the admission of it would overwhelm the residuary sovereignty of the States, and by one constructive operation, new-model the whole political fabric of the country.

From the review thus taken of the situation of the American colonies prior to their Independence; of the effect of this event on their situation; of the the nature and import of the articles of confederation; of the true meaning of the passage in the existing Constitution from which the common law has been deduced; of the difficulties and uncertainties incident to the doctrine; and of its vast consequences in extending the powers of the Federal Government, and in superseding the authorities of the State Governments; the committee feel the utmost confidence in concluding, that the common law never was, nor by any fair construction, ever can be, deemed a law for the American people as one community; and they indulge the strongest expectation that the same conclusion will finally be drawn, by all candid and accurate inquirers into the subject. It is indeed distressing to reflect, that it ever should have been made a question, whether the Constitution, on the whole face of which is seen so much labor to enumerate and define the several objects of Federal power, could intend to introduce in the lump, in an indirect manner, and by a forced construction of a few phrases, the vast and multifarious jurisdiction involved in the common law; a law filling so many ample volumes; a law overspreading the entire field of Legislation; and a law that would sap the foundation of the Constitution as a system of limited and specified powers. A severer reproach could not, in the opinion of the committee, be thrown on the Constitution, on those who framed, or on those who established it, than such a supposition would throw on them.

The argument, then, drawn from the common law, on the ground of its being adopted or recognised by the Constitution, being inapplicable to the Sedition Act, the committee will proceed to examine the other arguments which have been founded on the Constitution.

They will waste but little time on the attempt to cover the act by the preamble to the Constitution; it being contrary to every acknowledged rule of construction, to set up this part of an instrument, in opposition to the plain meaning, expressed in the body of the instrument. A preamble usually contains the general motives or reasons, for the particular regulations or measures which follow it; and is always understood to be explained and limited by them. In the present instance, a contrary interpretation would have the inadmissible effect, of rendering nugatory or improper, every part of the Constitution which succeeds the preamble.

The paragraph in Art. 1, Sec. 8, which contains the power to lay and collect taxes, duties, imposts and excises; to pay the debts, and provide for the common defence and general welfare, having been already examined, will also require no particular attention in this place. It will have been seen that in its fair and consistent meaning, it cannot enlarge the enumerated powers vested in Congress.

The part of the Constitution which seems most to be recurred to, in defence of the "Sedition Act," is the last clause of the above section, empowering Congress "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

The plain import of this clause is, - that Congress shall have all the incidental or instrumental powers necessary and proper for carrying into execution all the express powers; whether they be vested in the Government of the United States, more collectively, or in the several departments, or officers thereof. It is not a grant of new powers to Congress, but merely a declaration for the removal of all uncertainty, that the means of carrying into execution, those otherwise granted, are included in the grant.

Whenever, therefore, a question arises concerning the constitutionality of a particular power, the first question is, whether the power be expressed in the Constitution. If it be, the question is decided. If it be not expressed, the next inquiry must be, whether it is properly an incident to an express power, and necessary to its execution. If it be, it may exercised by Congress. If it be not, Congress cannot exercise it.

Let the question be asked, then, whether the power over the press exercised in the "Sedition Act," be found among the powers expressly vested in the Congress? This is not pretended.

Is there any express power, for executing which it is a necessary and proper power?

The power which has been selected, as least remote, in answer to this question, is that of "suppressing insurrections;" which is said to imply a power to *prevent* insurrections, by punishing whatever may *lead* or *tend* to them. But, it surely cannot, with the least plausibility, be said, that a regulation of the press, and a punishment of libels, are exercises of a power to suppress insurrections. The most that could be said, would be, that the punishment of libels, if it had the tendency ascribed to it, might prevent the occasion of passing or executing laws necessary and proper for the suppression of insurrections.

Has the Federal Government no power, then, to prevent as well as to punish resistance of the laws?

They have the power, which the Constitution deemed most proper, in their hands for the purpose. The Congress has power, before it happens, to pass laws for punishing it; and the Executive and Judiciary have power to enforce those laws when it does happen.

It must be recollected by many, and could be shown to the satisfaction of all, that the construction here put on the terms "necessary and proper," is precisely the construction which prevailed during the discussions and ratifications of the Constitution. It may be added, and cannot too often be repeated, that it is a construction absolutely necessary to maintain their consistency with the peculiar character of the government, as possessed of particular and defined powers only; not of the general and indefinite powers

vested in ordinary governments. For, if the power to *suppress insurrections* includes a power to *punish libels*; or if by the power to *punish*, includes a power to *prevent*, by all the means that may have that *tendency*; such is the relation and influence among the most remote subjects of legislations, that a power over a very few, would carry with it a power over all. And it must be wholly immaterial, whether unlimited powers be exercised under the name of unlimited powers, or be exercised under the name of unlimited means of carrying into execution, limited powers.

This branch of the subject will be closed with a reflection which must have weight with all; but more especially with those who place peculiar reliance on the judicial exposition of the Constitution, as the bulwark provided against undue extensions of the legislative power. If it be understood that the powers implied in the specified powers, have an immediate and appropriate relation to them, as means, necessary and proper for carrying them into execution, questions on the constitutionality of laws passed for this purpose, will be of a nature sufficiently precise and determinate for judicial cognizance and control! If, on the other hand, Congress are not limited in the choice of means by any such appropriate relation of them to be specified powers; but may employ all such means as they may deem fitted to *prevent*, as well as to *punish*, crimes subjected to their authority: such as may have a *tendency* only to *promote* an object for which they are authorised to provide; every one must perceive, that questions relating to means of this sort, must be questions of mere policy and expediency; on which, legislative discretion alone can decide, and from which the judicial interposition and control are completely excluded.

2. The next point which the resolution requires to be proved, is, that the power over the press exercised by the Sedition Act, is positively forbidden by one of the amendments to the Constitution.

The amendment stands in these words—"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or *abridging the freedom of speech or of the press*; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

In the attempts to vindicate the "Sedition Act," it has been contended, 1. That the "freedom of the press" is to be determined by the meaning of these terms in the common law. 2. That the

article supposes the power over the press to be in Congress, and prohibits them only from *abridging* the freedom allowed to it by the common law.

Although it will be shewn, in examining the second of these positions, that the amendment is a denial to Congress of all power over the press, it may not be useless to make the following observations on the first of them.

It is deemed to be a sound opinion, that the Sedition Act, in its definition of some of the crimes created, is an abridgment of the freedom of publication, recognized by principles of the common law in England.

The freedom of the press under the common law, is, in the defence of the Sedition Act, made to consist in an exemption from all *previous* restraint on printed publications, by persons authorized to inspect and prohibit them. It appears to the committee, that this idea of the freedom of the press, can never be admitted to be the American idea of it; since a law inflicting penalties on printed publications would have a similar effect with a law authorizing a previous restraint on them. It would seem a mockery to say, that no law should be passed, preventing publications from being made, but that laws might be passed for punishing them in case they should be made.

The essential difference between the British Government and the American Constitutions, will place this subject in the clearest light.

In the British Government, the danger of encroachments on the rights of the people, is understood to be confined to the Executive Magistrate. The representatives of the people in the Legislature, are not only exempt themselves from distrust, but are considered as sufficient guardians of the rights of their constituents against the danger from the Executive. Hence it is a principle, that the Parliament is unlimited in its power; or, in their own language, is omnipotent. Hence too, all the ramparts for protecting the rights of the people, such as their Magna Charta, their Bill of Rights, &c. are not reared against the Parliament, but against the royal prerogative. They are mere Legislative precautions against Executive usurpations. Under such a Government as this, an exemption of the press from previous restraint by licensers appointed by the King, is all the freedom that can be secured to it.

In the United States, the case is altogether different. The People, not the Government, possess the absolute sovereignty. The Legislature, no less than the Executive, is under limitations of power. Encroachments are regarded as possible from the one, as well as from the other. Hence in the United States, the great and essential rights of the People are secured against Legislative, as well as against Executive ambition. They are secured, not by laws paramount to prerogative; but by Constitutions paramount to laws. This security of the freedom of the press requires, that it should be exempt, not only from previous restraint by the Executive, as in Great Britain; but from Legislative restraint also; and this exemption, to be effectual, must be an exemption, not only from the previous inspection of licensers, but from the subsequent penalty of laws.

The state of the press, therefore, under the common law, cannot in this point of view, be the standard of its freedom in the United States.

But there is another view, under which it may be necessary to consider this subject. It may be alleged, that although the security for the freedom of the press be different in Great Britain and in this country; being a legal security only in the former, and a constitutional security in the latter; and although there may be a further difference, in an extension of the freedom of the press, here, beyond an exemption from previous restraint, to an exemption from subsequent penalties also; yet that the actual legal freedom of the press, under the common law, must determine the degree of freedom, which is meant by the terms, and which is constitutionally secured against both previous and subsequent restraints.

The committee are not unaware of the difficulty of all general questions, which may turn on the proper boundary between the liberty and licentiousness of the press. They will leave it therefore for consideration only, how far the difference between the nature of the British Government, and the nature of the American Governments, and the practice under the latter, may shew the degree of rigor in the former, to be inapplicable to, and not obligatory in the latter.

The nature of Governments elective, limited and responsible, in all their branches, may well be supposed to require a greater freedom of animadversion, than might be tolerated by the genius



of such a Government as that of Great Britain. In the latter it is a maxim, that the King, an hereditary, not a responsible magistrate, can do no wrong; and that the Legislature, which in two-thirds of its composition, is also hereditary, not responsible, can do what it pleases. In the United States, the Executive magistrates are not held to be infallible, nor the Legislatures to be omnipotent; and both being elective, are both responsible. Is it not natural and necessary, under such different circumstances, that a different degree of freedom, in the use of the press, should be contemplated ?

Is not such an inference favored by what is observable in Great Britain itself? Notwithstanding the general doctrine of the common law, on the subject of the press, and the occasional punishment of those who use it with a freedom offensive to the Government; it is well known, that with respect to the responsible members of the Government, where the reasons operating here, become applicable there, the freedom exercised by the press, and protected by the public opinion, far exceeds the limits prescribed by the ordinary rules of law. The ministry, who are responsible to impeachment, are at all times animadverted on by the press, with peculiar freedom; and during the elections for the House of Commons, the other responsible part of the Government, the press is employed with as little reserve towards the candidates.

The practice in America must be entitled to much more respect. In every State, probably, in the Union, the press has exerted a freedom in canvassing the merits and measures of public men, of every description, which has not been confined to the strict limits of the common law. On this footing, the freedom of the press has stood; on this footing it yet stands. And it will not be a breach, either of truth or of candor, to say, that no persons or presses are in the habit of more unrestrained animadversions on the proceedings and functionaries of the State Governments, than the persons and presses most zealous in vindicating the act of Congress for punishing similar animadversions on the Government of the United States.

The last remark will not be understood as claiming for the State Governments an immunity greater than they have heretofore enjoyed. Some degree of abuse is inseparable from the proper use of every thing; and in no instance is this more true, than in that



of the press. It has accordingly been decided by the practice of the States, that it is better to leave a few of its noxious branches to their luxuriant growth, than by pruning them away, to injure the vigor of those yielding the proper fruits. And can the wisdom of this policy be doubted by any who reflect, that to the press alone, chequered as it is with abuses, the world is indebted for all the triumphs which have been gained by reason and humanity, over error and oppression; who reflect, that to the same beneficent source the United States owe much of the lights which conducted them to the rank of a free and independent nation; and which have improved their political system into a shape so auspicious to their happiness. Had "Sedition Acts," forbidding every publication that might bring the constituted agents into contempt or disrepute, or that might excite the hatred of the people against the authors of unjust or pernicious measures, been uniformly enforced against the press; might not the United States have been languishing at this day, under the infirmities of a sickly confederation? Might they not possibly be miserable colonies, groaning under a foreign yoke?

To these observations one fact will be added, which demonstrates that the common law cannot be admitted as the *universal* expositor of American terms, which may be the same with those contained in that law. The freedom of conscience and of religion, are found in the same instruments which assert the freedom of the press. It will never be admitted that the meaning of the former in the common law of England, is to limit their meaning in the United States.

Whatever weight may be allowed to these considerations, the committee do not, however, by any means intend to rest the question on them. They contend that the article of amendment, instead of supposing in Congress a power that might be exercised over the press, provided its freedom was not abridged, was meant as a positive denial to Congress, of any power whatever on the subject.

To demonstrate that this was not the true object of the article, it will be sufficient to recal the circumstances which led to it, and to refer to the explanation accompanying the article.

When the Constitution was under the discussions which preceded its ratification, it is well known that great apprehensions were

expressed by many, lest the omission of some positive exception from the powers delegated of certain rights, and of the freedom of the press particularly, might expose them to the danger of being drawn by construction within some of the powers vested in Congress; more especially of the power to make all laws necessary and proper for carrying their other powers into execution. In reply to this objection, it was invariably urged to be a fundamental and characteristic principle of the Constitution, that all powers not given by it, were reserved; that no powers were given beyond those enumerated in the Constitution, and such as were fairly incident to them; that the power over the rights in question, and particularly over the press, was neither among the enumerated powers, nor incident to any of them; and consequently that an exercise of any such power would be a manifest usurpation. It is painful to remark how much the arguments now employed in behalf of the Sedition Act, are at variance with the reasoning which then justified the Constitution, and invited its ratification.

From this posture of the subject, resulted the interesting question in so many of the Conventions, whether the doubts and dangers ascribed to the Constitution, should be removed by any amendments previous to the ratification, or be postponed, in confidence that as far as they might be proper, they would be introduced in the form provided by the Constitution. The latter course was adopted; and in most of the States, the ratifications were followed by propositions and instructions for rendering the Constitution more explicit, and more safe to the rights, not meant to be delegated by it. Among those rights, the freedom of the press, in most instances, is particularly and emphatically mentioned. The firm and very pointed manner, in which it is asserted in the proceedings of the Convention of this State, will be hereafter seen.

In pursuance of the wishes thus expressed, the first Congress that assembled under the Constitution, proposed certain amendments, which have since, by the necessary ratifications, been made a part of it; among which amendments, is the article containing, among other prohibitions on the Congress, an express declaration that they should make no law abridging the freedom of the press.

Without tracing farther the evidence on this subject, it would seem scarcely possible to doubt, that no power whatever over the press, was supposed to be delegated by the Constitution, as it originally stood; and that the amendment was intended as a positive and absolute reservation of it.

But the evidence is still stronger. The proposition of amendments made by Congress, is introduced in the following terms. "*The Conventions of a number of the States having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstructions or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the Government, will best ensure the beneficial ends of its institutions.*"

Here is the most satisfactory and authentic proof, that the several amendments proposed, were to be considered as either declaratory or restrictive; and whether the one or the other, as corresponding with the desire expressed by a number of the States, and as extending the ground of public confidence in the Government.

Under any other construction of the amendment relating to the press, than that it declared the press to be wholly exempt from the power of Congress, the amendment could neither be said to correspond with the desire expressed by a number of the States, nor be calculated to extend the ground of public confidence in the Government.

Nay more; the construction employed to justify the "Sedition Act," would exhibit a phenomenon, without a parallel in the political world. It would exhibit a number of respectable States, as denying first that any power over the press was delegated by the Constitution; as proposing next, that an amendment to it, should explicitly declare that no such power was delegated; and finally, as concurring in an amendment actually recognizing or delegating such a power.

Is then the Federal Government, it will be asked, destitute of every authority for restraining the licentiousness of the press, and for shielding itself against the libellous attacks which may be made on those who administer it?

The Constitution alone can answer this question. If no such power be expressly delegated, and it be not both necessary and proper to carry into execution an express power; above all, if it be expressly forbidden by a declaratory amendment to the Constitution, the answer must be, that the Federal Government is destitute of all such authority.

And might it not be asked in turn, whether it is not more probable, under all the circumstances which have been reviewed, that the authority should be withheld by the Constitution, than that it should be left to a vague and violent construction; whilst so much pains were bestowed in enumerating other powers, and so many less important powers are included in the enumeration?

Might it not be likewise asked, whether the anxious circumspection which dictated so many *peculiar* limitations on the general authority, would be unlikely to exempt the press altogether from that authority? The peculiar magnitude of some of the powers necessarily committed to the Federal Government; the peculiar duration required for the functions of some of its departments; the peculiar distance of the seat of its proceedings from the great body of its constituents; and the peculiar difficulty of circulating an adequate knowledge of them through any other channel; will not these considerations, some or other of which produced other exceptions from the powers of ordinary Governments, all together, account for the policy of binding the hand of the Federal Government, from touching the channel which alone can give efficacy to its responsibility to its constituents; and of leaving those who administer it, to a remedy for their injured reputations, under the same laws, and in the same tribunals, which protect their lives, their liberties, and their properties?

But the question does not turn either on the wisdom of the Constitution, or on the policy which gave rise to its particular organization. It turns on the actual meaning of the instrument; by which it has appeared, that a power over the press is clearly excluded, from the number of powers delegated to the Federal Government.

8. And in the opinion of the Committee, well may it be said, as the resolution concludes with saying, that the unconstitutional power exercised over the press by the "Sedition Act," ought "more than any other, to produce universal alarm; because it is "levelled against that right of freely examining public characters "and measures, and of free communication among the people there- "on, which has ever been justly deemed the only effectual guar- "dian of every other right."

Without scrutinizing minutely into all the provisions of the "Sedition Act," it will be sufficient to cite so much of section 2, as follows: "And be it further enacted, that if any person shall  
"write, print, utter or publish, or shall cause or procure to be  
"written, printed, uttered or published, or shall knowingly and  
"willingly assist or aid in writing, printing, uttering or publishing  
"any false, scandalous and malicious writing or writings against  
"the Government of the United States, or either House of the  
"Congress of the United States, or the President of the United  
"States, *with an intent to defame the said Government, or either*  
"*House of the said Congress, or the President, or to bring them, or*  
"*either of them, into contempt or disrepute; or to excite against*  
"*them, or either, or any of them, the hatred of the good people of*  
"*the United States, &c. Then such person being thereof convicted*  
"*before any Court of the United States, having jurisdiction thereof,*  
"*shall be punished by a fine not exceeding two thousand dollars, and*  
"*by imprisonment not exceeding two years.*"

On this part of the act, the following observations present themselves:

1. The Constitution supposes that the President, the Congress, and each of its Houses, may not discharge their trusts, either from defect of judgment, or other causes. Hence, they are all made responsible to their constituents, at the returning periods of election; and the President, who is singly entrusted with very great powers, is, as a further guard, subjected to an intermediate impeachment.

2. Should it happen, as the Constitution supposes it may happen, that either of these branches of the Government may not have duly discharged its trust; it is natural and proper, that according to the cause and degree of their faults, they should be brought into contempt or disrepute, and incur the hatred of the people.

3. Whether it has, in any case, happened that the proceedings of either, or all of those branches, evinces such a violation of duty as to justify a contempt, a disrepute or hatred among the people, can only be determined by a free examination thereof, and a free communication among the people thereon.

4. Whenever it may have actually happened, that proceedings of this sort are chargeable on all or either of the branches of the

Goverament, it is the duty as well as right of intelligent and faithful citizens, to discuss and promulge them freely, as well to control them by the censorship of the public opinion, as to promote a remedy according to the rules of the Constitution. And it cannot be avoided, that those who are to apply the remedy must feel, in some degree, a contempt or hatred against the transgressing party.

5. As the act was passed on July 14, 1798, and is to be in force until March 3, 1801, it was of course, that during its continuance, two elections of the entire House of Representatives, an election of a part of the Senate, and an election of a President, were to take place.

6. That consequently, during all these elections, intended by the Constitution to preserve the purity, or to purge the faults of the administration, the great remedial rights of the people were to be exercised, and the responsibility of their public agents to be skreened, under the penalties of this act.

May it not be asked of every intelligent friend to the liberties of his country, whether the power exercised in such an act as this, ought not to produce great and universal alarm? Whether a rigid execution of such an act, in time past, would not have repressed that information and communication among the people, which is indispensable to the just exercise of their electoral rights? And whether such an act, if made perpetual, and enforced with rigor, would not, in time to come, either destroy our free system of Government, or prepare a convulsion that might prove equally fatal to it?

In answer to such questions, it has been pleaded that the writings and publications forbidden by the act, are those only which are false and malicious, and intended to defame; and merit is claimed for the privilege allowed to authors to justify, by proving the truth of their publications, and for the limitations to which the sentence of fine and imprisonment is subjected.

To those who concurred in the act, under the extraordinary belief, that the option lay between the passing of such an act, and leaving in force the common law of libels, which punishes truth equally with falsehood; and submits the fine and imprisonment to the indefinite discretion of the court, the merit of good intentions ought surely not to be refused. A like merit may perhaps be due

for the discontinuance of the *corporeal punishment* which the common law also leaves to the discretion of the court. This merit of *intention*, however, would have been greater, if the several mitigations had not been limited to so short a period; and the apparent inconsistency would have been avoided, between justifying the act at one time, by contrasting it with the rigors of the common law, otherwise in force; and at another time by appealing to the nature of the crisis, as requiring the temporary rigor exerted by the act.

But, whatever may have been the meritorious intentions of all or any who contributed to the Sedition Act; a very few reflections will prove, that its baneful tendency is little diminished by the privilege of giving in evidence the truth of the matter contained in political writings.

In the first place, where simple and naked facts alone are in question, there is sufficient difficulty in some cases, and sufficient trouble and vexation in all, of meeting a prosecution from the government, with the full and formal proof, necessary in a Court of law.

But, in the next place, it must be obvious to the plainest minds, that opinions, and inferences, and conjectural observations, are not only in many cases inseparable from the facts, but may often be more the objects of the prosecution than the facts themselves; or may even be altogether abstracted from particular facts; and that opinions and inferences, and conjectural observations, cannot be subjects of that kind of proof which appertains to facts, before a Court of law.

Again: It is no less obvious, that the *intent* to defame or bring into contempt or disrepute or hatred, which is made a condition of the offence created by the act, cannot prevent its pernicious influence, on the freedom of the press. For, omitting the inquiry, how far the malice of the intent is an inference of the law from the mere publication; it is manifestly impossible to punish the intent to bring those who administer the government into disrepute or contempt, without striking at the right of freely discussing public characters and measures: because those who engage in such discussions, must expect and *intend* to excite these unfavorable sentiments, so far as they may be thought to be deserved. To prohibit, therefore, the intent to excite those unfavorable sentiments against those who ad-



minister the government, is equivalent to a prohibition of the actual excitement of them; and to prohibit the actual excitement of them, is equivalent to a prohibition of discussions having that tendency and effect; which, again, is equivalent to a protection of those who administer the government, if they should at any time deserve the contempt or hatred of the people, against being exposed to it, by free animadversions on their characters and conduct. Nor can there be a doubt, if those in public trust be shielded by penal laws from such strictures of the press, as may expose them to contempt or disrepute, or hatred, where they may deserve it, that in exact proportion as they may deserve to be exposed, will be the certainty and criminality of the intent to expose them and the vigilance of prosecuting and punishing it; nor a doubt, that a government thus intrenched in penal statutes, against the just and natural effects of a culpable administration, will easily evade the responsibility, which is essential to a faithful discharge of its duty.

Let it be recollected, lastly, that the right of electing the members of the government, constitutes more particularly the essence of a free and responsible government. The value and efficacy of this right, depends on the knowledge of the comparative merits and demerits of the candidates for public trust; and on the equal freedom, consequently, of examining and discussing these merits and demerits of the candidates respectively. It has been seen, that a number of important elections will take place whilst the act is in force; although it should not be continued beyond the term to which it is limited. Should there happen, then, as is extremely probable in relation to some or other of the branches of the government, to be competitions between those who are, and those who are not, members of the government; what will be the situations of the competitors? Not equal; because the characters of the former will be covered by the "Sedition Act" from animadversions exposing them to disrepute among the people; whilst the latter may be exposed to the contempt and hatred of the people, without a violation of the act. What will be the situation of the people? Not free; because they will be compelled to make their election between competitors, whose pretensions they are not permitted by the act, equally to examine, to discuss, and to ascertain. And from both these situations, will not those in power derive an undue advantage for continuing themselves in it; which by impairing the right of election, endangers the blessings of the government founded on it?



It is with justice, therefore, that the General Assembly have affirmed in the resolution, as well that the right of freely examining public characters and measures, and of free communication thereon, is the only effectual guardian of every other right; as that this particular right is levelled at, by the power exercised in the "Sedition Act."

The resolution next in order is as follows:

*That this State having by its Convention, which ratified the Federal Constitution, expressly declared, that among other essential rights, "the liberty of conscience and of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having with other States, recommended an amendment for that purpose, which amendment was, in due time, annexed to the Constitution; it would mark a reproachful inconsistency, and criminal degeneracy, if an indifference were now shewn, to the most palpable violation of one of the rights thus declared and secured; and to the establishment of a precedent, which may be fatal to the other.*

To place this resolution in its just light, it will be necessary to recur to the act of ratification by Virginia, which stands in the ensuing form:

*We, the delegates of the people of Virginia, duly elected in pursuance of a recommendation from the General Assembly, and now met in Convention, having fully and freely investigated and discussed the proceedings of the Federal Convention, and being prepared as well as the most mature deliberation hath enabled us, to decide thereon; DO, in the name and in behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them, whensoever the same shall be perverted to their injury or oppression; and that every power not granted thereby, remains with them, and at their will. That therefore, no right of any denomination can be cancelled, abridged, restrained or modified, by the Congress, by the Senate or House of Representatives acting in any capacity, by the President, or any department or officer of the United States, except in those instances in which power is given by the Constitution for those purposes; and, that among other essential rights, the liberty of con-*

*science and of the press, cannot be cancelled, abridged, restrained or modified by any authority of the United States.*

Here is an express and solemn declaration by the Convention of the State, that they ratified the Constitution in the sense, that no right of any denomination can be cancelled, abridged, restrained or modified by the government of the United States or any part of it; except in those instances in which power is given by the Constitution; and in the sense particularly, "that among other essential rights, the liberty of conscience and freedom of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States."

Words could not well express, in a fuller or more forcible manner, the understanding of the Convention, that the liberty of conscience and the freedom of the press, were *equally and completely* exempted from all authority whatever of the United States.

Under an anxiety to guard more effectually these rights against every possible danger, the Convention, after ratifying the Constitution, proceeded to prefix to certain amendments proposed by them, a declaration of rights, in which are two articles providing, the one for the liberty of conscience, the other for the freedom of speech and of the press.

Similar recommendations having proceeded from a number of other States; and Congress, as has been seen, having in consequence thereof, and with a view to extend the ground of public confidence, proposed, among other declaratory and restrictive clauses, a clause expressly securing the liberty of conscience and of the press; and Virginia having concurred in the ratifications which made them a part of the Constitution; it will remain with a candid public to decide, whether it would not mark an inconsistency and degeneracy, if an indifference were now shewn to a palpable violation of one of those rights, the freedom of the press; and to a precedent therein, which may be fatal to the other, the free exercise of religion.

That the precedent established by the violation of the former of these rights, may, as is affirmed by the resolution, be fatal to the latter, appears to be demonstrable, by a comparison of the grounds on which they respectively rest; and from the scope of reasoning by which the power over the former has been vindicated.

*First.* Both of these rights, the liberty of conscience and of the press, rest equally on the original ground of not being delegated by the Constitution, and consequently withheld from the government. Any construction, therefore, that would attack this original security for the one, must have the like effect on the other.

*Secondly.* They are both equally secured by the supplement to the Constitution; being both included in the same amendment, made at the same time, and by the same authority. Any construction or argument, then, which would turn the amendment into a grant or acknowledgment of power with respect to the press, might be equally applied to the freedom of religion.

*Thirdly.* If it be admitted that the extent of the freedom of the press, secured by the amendment, is to be measured by the common law on this subject, the same authority may be resorted to, for the standard which is to fix the extent of the "free exercise of religion." It cannot be necessary to say what this standard would be; whether the common law be taken solely as the unwritten, or as varied by the written law of England.

*Fourthly.* If the words and phrases in the amendment, are to be considered as chosen with a studied discrimination, which yields an argument for a power over the press, under the limitation that its freedom be not abridged: the same argument results from the same consideration, for a power over the exercise of religion, under the limitation that its freedom be not prohibited.

For, if Congress may regulate the freedom of the press provided they do not abridge it, because it is said only, "they shall not abridge it," and is not said, "they shall make no law respecting it:" the analogy of reasoning is conclusive, that Congress may *regulate* and even *abridge* the free exercise of religion; provided they do not *prohibit* it;" because it is said only "they shall not prohibit it;" and is *not* said, "they shall make no law *respecting*, or no law *abridging* it."

The General Assembly were governed by the clearest reason, then, in considering the "Sedition Act," which legislates on the freedom of the press, as establishing a precedent that may be fatal to the liberty of conscience; and it will be the duty of all, in proportion as they value the security of the latter, to take the alarm at every encroachment on the former.

The two concluding resolutions only remain to be examined. They are in the words following:

*“ That the good people of this Commonwealth, having ever felt, and continuing to feel, the most sincere affection for their brethren of other States; the truest anxiety for establishing and perpetuating the union of all; and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship, and the instrument of mutual happiness; the General Assembly doth solemnly appeal to the like dispositions in the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and, that the necessary and proper measures will be taken by each, for co-operating with this State in maintaining unimpaired, the authorities, rights, and liberties reserved in the States respectively, or to the people.”*

*That the Governor be desired to transmit a copy of the foregoing resolutions to the Executive authority of each of the other States, with a request that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives, representing this State in the Congress of the United States.*

The fairness and regularity of the course of proceeding, here pursued, have not protected it against objections even from sources too respectable to be disregarded.

It has been said, that it belongs to the Judiciary of the United States, and not the State Legislatures, to declare the meaning of the Federal Constitution.

But a declaration, that proceedings of the Federal Government are not warranted by the Constitution, is a novelty neither among the citizens; nor among the Legislatures of the States; nor are the citizens or the Legislature of Virginia, singular in the example of it.

Nor can the declarations of either, whether affirming or denying the Constitutionality of measures of the Federal Government; or whether made before or after judicial decisions thereon, be deemed in any point of view, an assumption of the office of the judge. The declarations, in such cases, are expressions of opinion, unaccompanied with any other effect than what they may produce

on opinion, by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expression of the general will; possibly to a change in the opinion of the judiciary; the latter enforces the general will, whilst that will and that opinion continue unchanged.

And if there be no impropriety in declaring the unconstitutionality of proceedings in the Federal Government, where can be the impropriety of communicating the declaration to other States, and inviting their concurrence in a like declaration? What is allowable for one must be allowable for all; and a free communication among the States, where the Constitution imposes no restraint, is as allowable among the State Governments as among other public bodies or private citizens. This consideration derives a weight, that cannot be denied to it, from the relation of the State Legislatures to the Federal Legislature, as the immediate constituents of one of its branches.

The Legislatures of the States have a right also to originate amendments to the Constitution, by a concurrence of two-thirds of the whole number, in applications to Congress for the purpose. When new States are to be formed by a junction of two or more States or parts of States, the Legislatures of the States concerned are, as well as Congress, to concur in the measure. The States have a right also to enter into agreements or compacts, with the consent of Congress. In all such cases a communication among them results from the object which is common to them.

It is lastly to be seen, whether the confidence expressed by the resolution, that the *necessary and proper measures* would be taken by the other States for co-operating with Virginia in maintaining the rights reserved to the States, or to the people, be in any degree liable to the objections which have been raised against it.

If it be liable to objection, it must be because either the object or the means are objectionable.

The object being to maintain what the Constitution has ordained, is in itself a laudable object.

The means are expressed in the terms, "the necessary and proper measures." A proper object was to be pursued, by means both necessary and proper.

To find an objection, then, it must be shown that some meaning was annexed to these general terms, which was not proper; and, for this purpose, either that the means used by the General Assembly were an example of improper means, or that there were no proper means to which the terms could refer.

In the example given by the State, of declaring the Alien and Sedition Acts to be unconstitutional, and of communicating the declaration to the other States, no trace of improper means has appeared. And if the other States had concurred in making a like declaration, supported too by the numerous applications flowing immediately from the people, it can scarcely be doubted, that these simple means would have been as sufficient, as they are unexceptionable.

It is no less certain that other means might have been employed, which are strictly within the limits of the Constitution. The Legislatures of the States might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts; or, they might have represented to their respective Senators in Congress, their wish, that two-thirds thereof would propose an explanatory amendment to the Constitution; or two-thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a Convention for the same object.

These several means, though not equally eligible in themselves, nor probably, to the States, were all constitutionally open for consideration. And if the General Assembly, after declaring the two acts to be unconstitutional, the first and most obvious proceeding on the subject, did not undertake to point out to the other States, a choice among the farther measures that might become necessary and proper, the reserve will not be misconstrued by liberal minds into any culpable imputation.

These observations appear to form a satisfactory reply to every objection which is not founded on a misconception of the terms employed in the resolutions. There is one other, however, which may be of too much importance not to be added. It cannot be forgotten, that among the arguments addressed to those who apprehended danger to liberty from the establishment of the General Government over so great a country, the appeal was emphatically made to the intermediate existence of the State Governments, between the people and that Government, to the vigilance with which they would descry the first symptoms of usurpation, and to the

promptitude with which they would sound the alarm to the public. This argument was probably not without its effect; and if it was a proper one then, to recommend the establishment of the Constitution, it must be a proper one now, to assist in its interpretation.

The only part of the two concluding resolutions that remains to be noticed, is the repetition in the first, of that warm affection to the Union and its members, and of that scrupulous fidelity to the Constitution, which have been invariably felt by the people of this State. As the proceedings were introduced with these sentiments, they could not be more properly closed than in the same manner. Should there be any so far misled as to call in question the sincerity of these professions, whatever regret may be excited by the error, the General Assembly cannot descend into a discussion of it. Those, who have listened to the suggestion, can only be left to their own recollection of the part which this State has borne in the establishment of our National Independence, in the establishment of our National Constitution, and in maintaining under it the authority and laws of the Union, without a single exception of internal resistance or commotion. By recurring to these facts, they will be able to convince themselves, that the representatives of the people of Virginia, must be above the necessity of opposing any other shield to attacks on their national patriotism, than their own consciousness, and the justice of an enlightened public; who will perceive in the resolutions themselves, the strongest evidence of attachment both to the Constitution and to the Union, since it is only by maintaining the different governments and departments within their respective limits, that the blessings of either can be perpetuated.

The extensive view of the subject thus taken by the committee, has led them to report to the House, as the result of the whole, the following resolution:

*Resolved*, That the General Assembly, having carefully and respectfully attended to the proceedings of a number of the States, in answer to their resolutions of December 21, 1798, and having accurately and fully re-examined and re-considered the latter, find it to be their indispensable duty to adhere to the same, as founded in truth, as consonant with the Constitution, and as conducive to its preservation; and more especially to be their duty to renew, as they do hereby renew, their protest against "the Alien and Sedition Acts," as palpable and alarming infractions of the Constitution.



## MR. MADISON'S LETTER.

To the Editor of the North American Review.

Montpelier, August, 1830.

DEAR SIR,

I have duly received your letter, in which you refer to the "nullifying doctrine," advocated as a constitutional right, by some of our distinguished fellow-citizens; and to the proceedings of the Virginia Legislature in '98, '99, as appealed to in behalf of that doctrine; and you express a wish for my ideas on those subjects.

I am aware of the delicacy of the task in some respects, and the difficulty in every respect, of doing full justice to it. But having, in more than one instance, complied with a like request from other friendly quarters, I do not decline a sketch of the views which I have been led to take of the doctrine in question, as well of some others connected with them; and of the grounds from which it appears, that the proceedings of Virginia have been misconceived by those who have appealed to them. In order to understand the true character of the Constitution of the United States, the error, not uncommon, must be avoided, of viewing it through the medium, either of a consolidated government, or of a confederated government, whilst it is neither the one nor the other; but a mixture of both. And having, in no model, the similitudes and analogies applicable to other systems of government, it must, more than any other, be its own interpreter, according to its text and *the facts of the case.*

From these it will be seen that the characteristic peculiarities of the Constitution are: 1. The mode of its formation. 2. The division of the supreme powers of government between the States in their united capacity, and the States in their individual capacities.

1. It was formed, not by the governments of the component States, as the federal government for which it was substituted was formed. Nor was it formed by a majority of the people of the United States, as a single community in the manner of a consolidated government.



It was formed by the States, that is, by the people in each of the States, acting in their highest sovereign capacity; and formed consequently by the same authority which formed the State Constitutions.

Being thus derived from the same source as the Constitutions of the States, it has, within each State, the same authority as the Constitution of the State; and is as much a Constitution, in the strict sense of the term, within its prescribed sphere, as the Constitutions of the States are, within their respective spheres; but with this obvious and essential difference, that being a compact among the States in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it cannot be altered or annulled at the will of the States individually, as the Constitution of a State may be at its individual will.

2. And that it divides the supreme powers of government, between the government of the United States and the governments of the individual States, is stamped on the face of the instrument: the powers of war and of taxation, of commerce and of treaties, and other enumerated powers vested in the government of the United States, being of as high and sovereign a character, as any of the powers reserved to the State governments.

Nor is the government of the United States created by the Constitution, less a government in the strict sense of the term, within the sphere of its powers, than the governments created by the Constitutions of the States are, within their several spheres. It is, like them, organized into legislative, executive and judiciary departments. It operates, like them, directly on persons and things. And, like them it has at command a physical force for executing the powers committed to it. The concurrent operation in certain cases, is one of the features marking the peculiarity of the system.

Between these different constitutional governments, the one operating in all the States, the others operating separately in each, with the aggregate powers of government divided between them, it could not escape attention, that controversies would arise concerning the boundaries of jurisdiction; and that some provision ought to be made for such occurrences. A political system that does not provide for a peaceable and authoritative termination of occurring controversies, would not be more than the shadow of a

government, the object and end of a real government being the substitution of law and order for uncertainty, confusion and violence.

That to have left a final decision, in such cases, to each of the States, then thirteen, and already twenty-four, could not fail to make the Constitution and laws of the United States different in different States, was obvious, and not less obvious, that this diversity of independent decisions, must altogether distract the government of the Union, and speedily put an end to the Union itself. A uniform authority of the laws, is in itself a vital principle. Some of the most important laws could not be partially executed. They must be executed in all the States, or they could be duly executed in none. An impost, of an excise for example, if not in force in some States, would be defeated in others. It is well known that this was among the lessons of experience, which had a primary influence in bringing about the existing Constitution. A loss of its general authority would moreover revive the exasperating questions between the States holding ports for foreign commerce, and the adjoining States without them; to which are now added all the inland States, necessarily carrying on their foreign commerce through other States.

To have made the decisions under the authority of the individual States, co-ordinate, in all cases, with decisions under the authority of the United States, would unavoidably produce collisions incompatible with the peace of society, and with that regular and efficient administration which is of the essence of free governments. Scenes could not be avoided, in which a ministerial officer of the United States, and the correspondent officer of an individual State, would have recontrès in executing conflicting decrees; the result of which would depend on the comparative force of the local poses attending them; and that a casualty depending on the political opinions and party feelings in different States.

To have referred every clashing decision, under the two authorities, for a final decision, to the States as parties to the Constitution, would be attended with delays, with inconveniences, and with expenses, amounting to a prohibition of the expedient; not to mention its tendency to impair the salutary veneration for a system requiring such frequent interpositions, nor the delicate ques-

tions which might present themselves as to the form of stating the appeal, and as to the quorum for deciding it.

To have trusted to negotiation for adjusting disputes between the government of the United States and the State governments, as between independent and separate sovereignties, would have lost sight altogether of a Constitution and government for the Union, and opened a direct road from a failure of that resort, to the ultimate ratio between nations wholly independent of and alien to each other. If the idea had its origin the process of adjustment between separate branches of the same government, the analogy entirely fails. In the case of disputes between independent parts of the same government, neither party being able to consummate its will, nor the government to proceed without a concurrence of the parts, necessity brings about an accommodation. In disputes between a State government, and the government of the United States, the case is practically as well as theoretically different; each party possessing all the departments of an organized government, legislative, executive and judiciary; and having each a physical force to support its pretensions. Although the issue of negotiation might sometimes avoid this extremity, how often would it happen among so many States, that an unaccommodating spirit in some would render that resource unavailing. A contrary supposition would not accord with a knowledge of human nature, or the evidence of our own political history.

The Constitution, not relying on any of the preceding modifications, for its safe and successful operation, has expressly declared, on the one hand, 1. "That the Constitution, and the laws made in pursuance thereof, and all treaties made under the authority of the United States, shall be the supreme law of the land: 2. That the judges of every State shall be bound thereby, any thing in the Constitution and laws of any State to the contrary notwithstanding 3. That the judicial power of the United States shall extend to all cases in law and equity arising under the Constitution, the laws of the United States, and treaties made under their authority," &c.

On the other hand, as a security of the rights and powers of the States, in their individual capacities, against an undue preponderance of the powers granted to the government over them in their united capacity, the Constitution has relied on, 1. The responsibility of the Senators and Representatives in the Legislature of the

United States to the Legislatures and people of the States: 2. The responsibility of the President to the people of the United States: and, 3. The liability of the executive and judicial functionaries of the United States to impeachment by the representatives of the people of the States, in one branch of the Legislature of the United States, and trial by the representatives of the States, in the other branch: the State functionaries, legislative, executive and judicial, being, at the same time, in their appointment and responsibility, altogether independent of the agency or authority of the United States.

How far this structure of the government of the United States is adequate and safe for its objects, time alone can absolutely determine. Experience seems to have shewn, that whatever may grow out of future stages of our national career, there is, as yet, a sufficient control in the popular will, over the executive and legislative departments of the government. When the Alien and Sedition laws were passed in contravention to the opinions and feelings of the community, the first elections that ensued put an end to them. And whatever may have been the character of other acts, in the judgment of many of us, it is but true, that they have generally accorded with the views of a majority of the States, and of the people. At the present day it seems well understood, that the laws which have created most dissatisfaction, have had a like sanction without doors; and that whether continued, varied or repealed, a like proof will be given of the sympathy and responsibility of the representative body to the constituent body. Indeed the great complaint now is against the results of this sympathy and responsibility in the legislative policy of the nation.

With respect to the judicial power of the United States, and the authority of the Supreme Court in relation to the boundary of jurisdiction between the federal and the State governments, I may be permitted to refer to the thirty-ninth number of the "Federalist,"\* for the light in which the subject was regarded by its writer, at the period when the Constitution was depending; and it is be-

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\* No. 33. It is true, that in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide, is to be established under the general government. But this does not change the principle of the case. The decision is to be impartially made, according to the rules of the Constitution; and all the usual and most effectual precautions are taken to secure this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword, and a dissolution of the compact; and that it ought to be established under the general, rather than under the local governments; or, to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated.

lieved that the same was the prevailing view then taken of it, that the same view has continued to prevail, and that it does so at this time, notwithstanding the eminent exceptions to it.

But it is perfectly consistent with the concession of this power to the Supreme Court, in cases falling within the course of its functions, to maintain that the power has not always been rightly exercised. To say nothing of the period, happily a short one, when judges in their seats did not abstain from intemperate and party harangues, equally at variance with their dignity, there have been occasional decisions from the bench, which have incurred serious and extensive disapprobation. Still it would seem, that, with but few exceptions, the course of the judiciary has been hitherto sustained by the predominant sense of the nation.

Those who have denied or doubted the supremacy of the judicial power of the United States, and denounce at the same time nullifying power in a State, seem not to have sufficiently adverted to the utter inefficiency of a supremacy in a law of the land, without a supremacy in the exposition and execution of the law; nor to the destruction of all equipoise between the Federal government and the State governments, if, whilst the functionaries of the Federal government are directly or indirectly elected by and responsible to the States, and the functionaries of the States are in their appointment and responsibility wholly independent of the United States, no constitutional control of any sort belonged to the United States over the States. Under such an organization, it is evident that it would be in the power of the States, individually, to pass unauthorized laws, and to carry them into complete effect, any thing in the Constitution and laws of the United States to the contrary notwithstanding. This would be a nullifying power in its plenary character; and whether it had its final effect, through the legislative, executive, or judiciary organ of the State, would be equally fatal to the constituted relation between the two governments.

Should the provisions of the Constitution as here reviewed, be found not to secure the government and rights of the States against usurpations and abuses on the part of the United States, the final resort within the purview of the Constitution lies in an amendment of the Constitution, according to a process applicable by the States.

And in the event of the failure of every constitutional resort, and an accumulation of usurpations and abuses, rendering passive obedience and non-resistance a greater evil than resistance and revolution, there can remain but one resort, the last of all—an appeal from the cancelled obligations of the compact, to original rights and the law of self-preservation. This is the *ultima ratio* under all governments, whether consolidated, confederated, or a compound of both; and it cannot be doubted, that a single member of the Union, in the extremity supposed, but in that only, would have a right, as an extra and ultra-constitutional right, to make the appeal.

This brings us to the expedient lately advanced, which claims for a single State a right to appeal against an exercise of power by the government of the United States, decided by the State to be unconstitutional to the parties to the constitutional compact; the decision of the State to have the effect of nullifying the act of the government of the United States, unless the decision of the State be reversed by three-fourths of the parties.

The distinguished names and high authorities which appear to have asserted and given a practical scope to this doctrine, entitle it to a respect which it might be difficult otherwise to feel for it.

If the doctrine were to be understood as requiring the three-fourths of the States to sustain, instead of that proportion to reverse the decision of the appealing State, the decision to be without effect during the appeal, it would be sufficient to remark, that this extra-constitutional course might well give way to that marked out by the Constitution, which authorizes two-thirds of the States to institute, and three-fourths to effectuate an amendment of the Constitution, establishing a permanent rule of the highest authority, in place of an irregular precedent of construction only.

But it is understood that the nullifying doctrine imports that the decision of the State is to be presumed valid, and that it overrules the law of the United States, unless overruled by three-fourths of the States.

Can more be necessary to demonstrate the inadmissibility of such a doctrine, than that it puts it in the power of the smallest fraction over one-fourth of the United States, that is, of seven States out of twenty-four, to give the law and even the Constitu-

tion of seventeen States, each of the seventeen having, as parties to the Constitution, an equal right of the seven, to expound it, and to insist on the exposition? That the seven might, in particular instances, be right, and the seventeen wrong, is more than possible. But to establish a positive and permanent rule, giving such a power to such a minority, over such a majority, would overturn the first principle of free government, and in practice necessarily overturn the government itself.

It is to be recollected, that the Constitution was proposed to the people of the States as *a whole*, and unanimously adopted by the States as *a whole*, it being a part of the Constitution that not less than three-fourths of the States should be competent to make any alteration in what had been unaimously agreed to. So great is the caution on this point, that in two cases where peculiar interests were at stake, a proportion even of three-fourths is distrusted, and unanimity required to make an alteration.

When the Constitution was adopted as a whole, it is certain that there were many parts, which, if separately proposed, would have been promptly rejected. It is far from impossible, that every part of a Constitution might be rejected by a majority, and yet taken together as a whole, be unanimously accepted. Free Constitutions will rarely if ever be formed, without reciprocal concessions; without articles conditioned on and balancing each other. Is there a Constitution of a single State out of the twenty-four that would bear the experiment of having its component parts submitted to the people and separately decided on?

What the fate of the Constitution of the United States would be if a small proportion of the States could expunge parts of it particularly valued by a large majority, can have but one answer.

The difficulty is not removed by limiting the doctrine to cases of construction. How many cases of that sort, involving cardinal provisions of the Constitution have occurred? How many now exist? How many may hereafter spring up? How many might be ingeniously created, if entitled to the privilege of a decision in the mode proposed?

Is it certain that the principle of that mode would not reach further than is contemplated? If a single State can of right require three-fourths of its co-States to overrule its exposition of the Con-



stitution, because that proportion is authorized to amend it, would the plea be less plausible that, as the Constitution was unanimously established, it ought to be unanimously expounded?

The reply to all such suggestions seems to be unavoidable and irresistible, that the Constitution is a compact, that its text is to be expounded according to the provisions for expounding it—making a part of the compact; and that none of the parties can rightfully renounce the expounding provision more than any other part. When such a right accrues, as may accrue, it must grow out of abuses of the compact releasing the sufferers from their fealty to it.

In favor of the nullifying claim for the States, individually, it appears, as you observe, that the proceedings of the Legislature of Virginia, in '98, and in '99, against the Alien and Sedition acts, are much dwelt upon.

It may often happen, as experience proves, that erroneous constructions not anticipated, may not be sufficiently guarded against, in the language used; and it is due to the distinguished individuals who have misconceived the intention of those proceedings, to suppose that the meaning of the Legislature, though well comprehended at the time, may not now be obvious to those unacquainted with the contemporary indications and impressions.

But it is believed that by keeping in view the distinctions between the governments of the States, and the States in the sense in which they are parties to the Constitution; between the rights of the parties in their concurrent and in their individual capacities; between the several modes and objects of interposition against the abuses of power, and especially between interpositions within the purview of the Constitution, and interpositions appealing from the Constitution to the rights of nature, paramount to all Constitutions, with an attention, always of explanatory use, to the views and arguments which were combated, the resolutions of Virginia, as vindicated in the report on them, will be found entitled to an exposition, shewing a consistency in their parts, and an inconsistency of the whole with the doctrine under consideration.

That the Legislature could not have intended to sanction such a doctrine, is to be inferred from the debates in the house of delegates, and from the address of the two houses to their constituents, on the subject of the resolutions. The tenor of the debates, which



were ably conducted, and are understood to have been revised for the press by most, if not all of the speakers, discloses no reference whatever, to a constitutional right of an individual State to arrest by force the operation of a law of the United States. Concert among the States for redress against the Alien and Sedition laws, as acts of usurped power, was a leading sentiment; and the attainment of a concert, the immediate object of the course adopted by the Legislature, which was that of inviting the other States "to *concur* in declaring the acts to be unconstitutional, and to *co-operate* by the necessary and proper measures, in maintaining unimpaired the authorities, rights and liberties reserved to the States respectively, and to the people."\* That by the necessary and proper measures to be *concurrently* and *co-operatively* taken, were meant measures known to the Constitution, particularly the ordinary control of the people and Legislatures of the States, over the government of the United States, cannot be doubted; and the interposition of this control, as the event shewed, was equal to the occasion.

It is worthy of remark, and explanatory of the intentions of the Legislature, that the words "not law, but utterly null, void and of no force or effect," which had followed, in one of the resolutions, the word "unconstitutional," were struck out by common consent. Though the words were in fact but synonymous with "unconstitutional," yet, to guard against a misunderstanding of this phrase as more than declaratory of opinion, the word "unconstitutional" alone was retained, as not liable to that danger.

The published address of the Legislature to the people, their constituents, affords another conclusive evidence of its views. The address warns them against the encroaching spirit of the general government, argues the unconstitutionality of the Alien and Sedition acts, points to other instances in which the constitutional limits had been overleaped; dwells upon the dangerous mode of deriving power by implication; and in general presses the necessity of watching over the consolidating tendency of the federal policy. But nothing is said that can be understood to look to means of maintaining the rights of the States beyond the regular ones, within the forms of the Constitution.

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\* See the concluding resolution of 1798.

If any further lights on the subject could be needed, a very strong one is reflected in the answers to the resolutions, by the States which protested against them. The main objection of these, beyond a few general complaints of the inflammatory tendency of the resolutions, was directed against the assumed authority of a State Legislature to declare a law of the United States unconstitutional, which they pronounced an unwarrantable interference with the exclusive jurisdiction of the Supreme Court of the United States. Had the resolutions been regarded as avowing and maintaining a right, in an individual State, to arrest, by force, the execution of a law of the United States, it must be presumed that it would have been a conspicuous object of their denunciation.

With cordial salutations,

JAMES MADISON.



**No. 42.**

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**IN SENATE,**

**February 4, 1833.**

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**REPORT**

**Of the affairs and condition of the North River  
Bank.**

**NORTH RIVER BANK, }**  
***New-York, Feb. 1, 1833. }***

**JOHN F. BACON, Esq.**  
***Clerk of the Senate***  
***of the State of New-York.***

**SIR—**

In compliance with a resolution of the Honorable the Senate, I herewith transmit you a statement of the affairs and condition of the North River Bank.

Yours respectfully,  
**LEONARD KIP, Pres't.**



STATEMENT  
Of the Funds and Property of the North River Bank, of the city of New-York,  
January 31, 1833.

Real estate, consisting of the banking house and property in the 8th ward.....	\$34,105 21	Capital stock paid in, .....	\$500,000 00
Bills discounted, .....	807,186 64	Notes in circulation,.....	176,674 00
Bills protested, a part of which will be reco- vered, .. .....	5,803 78	Unpaid dividends, .....	2,075 50
Notes of city banks,.....	87,952 97	Profit and loss, .....	34,650 76
do. country,.....	2,930 00	Discounts received since 1st Jan... 4,070 63	
Specie,.....	51,386 16		38,721 39
Due from city banks,.....	63,593 08	Due to City Banks, .....	94,519 60
do foreign,.....	30,190 31	do foreign do ... ..	18,191 53
Plates, paper and bank furniture,.....	3,684 62	do Insurance Companies,.....	7,707 04
Expense account,.....	1,182 70	do individual deposits, .....	250,126 41
	\$1,088,015 47		1,088,015 47

We, Leonard Kip, president, and A. B. Hays, cashier of the North River Bank, do swear that the above is a true  
and just statement of the affairs and condition of the said bank, to the best of our knowledge and belief.

LEONARD KIP, *President.*  
A. B. HAYS, *Cashier.*

Sworn to this 1st day of }  
Feb. 1833, before me, }

GEO. D. COOPER, *Notary Public.*



**IN SENATE,**

**January 31, 1833.**

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**REPORT**

**Of the trustees of Union College, for the year 1832.**

*To the Honorable the Legislature of the State of New-York.*

The board of trustees of Union College respectfully report to the honorable the Legislature of the State of New-York,

That the present faculty consists of the following officers, viz.:

**ELIHAELET NOTT, D. D., L. L. D.,** *President.*

**ROBERT PROUDFIT, D. D.,** *Professor of the Greek and Latin Languages.*

**ALONZO POTTER, A. M.,** *Professor of Rhetoric and Moral Philosophy.*

**BENJAMIN F. JOSLIN, A. M., M. D.,** *Professor of Natural Philosophy.*

**JOHN A. YATES, A. M.,** *Professor of Oriental Literature.*

**ISAAC W. JACKSON, A. M.,** *Adjunct Professor of Mathematics.*

**THOMAS C. REED, A. M.,** *do do of Intellectual Philosophy.*

**CHESTER AVERILL, A. M.,** *do do of Chemistry and Languages.*

**PIERRE A. PROAL, A. M.,** *Instructor of the French and Spanish Languages.*

**SILAS TOTTEN, A. B.,** *Tutor.*

**DANIEL L. STEWART, A. B.,** *Tutor.*

That seventy young gentlemen were admitted to the degree of Bachelor of Arts at the last annual commencement. That the whole number of students for the current year has been two hundred and twenty-seven.



That the annual expense of a student in the institution, including board, tuition, and books, is about one hundred and twelve dollars.

The terms of admission and the course of studies afterwards pursued, will appear from a printed statement accompanying this report.

That the Classical Library for the use of students is continued, from which indigent students receive their books gratis. And fifty-two young men have been otherwise assisted during the past year from the fund granted by the State for that purpose.

The thirty-five thousand dollars appropriated to the permanent support of officers, the five thousand dollars for establishing a Classical Library, and the five thousand dollars for aiding indigent youth, arising from the lotteries heretofore granted to Union College, has been and continues invested according to law; which investiture constitutes a permanent fund, amounting to forty-five thousand dollars.

They have only to add, that during the last year the students of the institution have generally prosecuted their studies in a satisfactory manner, and have been exemplary in their conduct.

JONAS HOLLAND,

*Register, and Clerk pro tem.*

*Schenectady, January 22, 1833.*

## Course of studies, laws, &c. of Union College.

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### FACULTY.

E. NOTT, D. D., LL. D., *President.*

ROBERT PROUDFIT, D. D., *Professor of the Greek and Latin Languages.*

ALONZO POTTER, A. M., *Professor of Rhetoric and Moral Philosophy.*

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SILAS TOTTEN, A. B., *Tutor.*

JONAS HOLLAND, *Register.*

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### COURSE OF STUDIES,

*Preparatory for admission into Union College.*

Riggs' Latin Grammar, and Farrand's Latin Course.

Selectæ e Vet. Eutropius and Clark's Introduction.

Corns. Nepos, Cæsar's Commentaries.

Virgil, Cicero's Select Orations, Moore's Greek Grammar, Greek Testament, Greek Introduction and Græca Minora.

Arithmetic, English Grammar and Geography.

Less attention is paid to the particular books read, than to the amount of knowledge acquired.

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### COURSE OF STUDIES,

*Pursued after admission into Union College.*

#### FRESHMAN CLASS.

##### *First Term.*

Cicero de Officiis, de Amicitia, &c.

Horace and Latin Prosody—with Composition and Declamation.

Herodotus and Thucydides, ..... Græca Maj.

*Second Term.*

Xenophon's *Cyrop'a.* and *Anabasis.*  
 Horace, *Roman Antiquities.*  
 Livy—*with Composition and Declamation.*

*Third Term.*

Sallust.  
 Epicteti *Enchiridion.*  
 Lysias, Isocrates and Demothenes—*with Composition and Declamation.*

## CLASSICAL COURSE.\*

## SOPHOMORE CLASS.

*First Term.*

Tacitus' *History.*  
 Xenophon's *Men.* and *Plato,* ..... *Græca Maj.*  
 Algebra—(through equations of the second degree,) .... *Bourdon.*

*Second Term.*

Aristotle, *Dyonisius* and *Longinus,* ..... *Græca Maj.*  
 Tacitus, continued.  
 Plane Geometry, ..... *Legendre.*

*Third Term.*

Homer's *Odyssey,* ..... *Græca Maj.*  
 Solid Geometry, and Plane Trigonometry, ..... *Legendre*  
 Logic.

## JUNIOR CLASS.

*First Term.*

Conic Sections, ..... *West.*  
 Hesiod and Sophocles, ..... *Græca Maj.*  
 Rhetoric, ..... *Blair.*

*Second Term.*

Cicero de *Oratorio.*  
 Spherical Trigonometry.—Applications of Trigonometry.  
 Natural Philosophy,—(*Statics.*) ..... *Farrar's Mechanics.*

*Third Term.*

Political Economy.  
 Medea, &c. .... *Græca Maj.*  
 Natural Philosophy—(*Dynamics, Hydros. &c.*) ... *Farrar's Mech.*

## SENIOR CLASS.

*First Term.*

Intellectual Philosophy, ..... *Stewart or Brown.*  
 Lectures on Electricity and Magnetism, and Biot's Optics.  
 Elements of Criticism, ..... *Kames.*

*Second Term.*

Astronomy, ..... *Farrar's Biot.*  
 Moral philosophy, ..... *Paley.*  
 Kames and Lectures on Chemistry.

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\* Either the Classical or Scientific Course, at the choice of the student.

*Third Term.*

Hebrew.

Greek Testament, with Lectures on Biblical Literature.

Lectures on Elements of Criticism, Chemistry, Botany and Mineralogy.

## SCIENTIFIC COURSE.\*

## SOPHOMORE CLASS.

*First Term.*History, ..... *Tytler.*Arithmetic, ..... *Hassler.*Algebra—(through equations of the second degree,) ..... *Bourdon.**Second Term.*History, continued, ..... *Tytler.*Natural Theology, ..... *Paley.*Plane Geometry, ..... *Legendre.**Third Term.*Natural History, ..... *Ware.*Solid Geometry, ..... *Legendre.*

Logic.

## JUNIOR CLASS.

*First Term.*Trigonometry and Applications, ..... *Hassler.*Algebra, ..... *Bourdon.*Rhetoric, ..... *Blair.**Second Term.*

French.

Applications of Trigonometry.—Analytic Geometry of  
two dimensions, ..... *Boucharlat.*Natural Philosophy—(*Statics.*) ..... *Farrar's Mechanics.**Third Term.*Differential and Integral Calculus, ..... *Boucharlat*Descriptive Geometry, *Davies.*—Analytic Geometry of  
three dimensions, ..... *Boucharlat.*Natural Philosophy—(*Dynamics, Hydros. &c.*) ..... *Farrar's Mech.*

## SENIOR CLASS.

*First Term.*

Boucharlat's Mechanics.

Lectures on Electricity and Magnetism, and Biot's Optics.

Elements of Criticism, ..... *Kames.**Second Term.*Moral Philosophy, ..... *Paley.*Astronomy, ..... *Farrar's Biot.*

Kames and Lectures on Chemistry.

*Third Term.*

Law—Kent or Blackstone.

Anatomy and Physiology.

Lectures on Elements of Criticism, Chemistry, Botany and Mineralogy.

## LECTURES DURING THE COURSE ON

Political Economy.

Intellectual and Moral Philosophy, and the Evidences of Christianity.

Rhetoric and Oratory.

Natural Philosophy.

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 INFORMATION.
*Character.*

Candidates are required to furnish evidence of their good moral character, and if from another college, a regular dismissal or letter of request.

*Age.*

Sixteen years of age are requisite to admission: the candidate enters, however, any class for which he is qualified.

*Payment.*

There are three terms of study in each year, and the expense of each is paid in advance. Students unless from another college, entering the Sophomore class, pay \$7.00; the Junior \$9.00; and the Senior \$12.00, which is the only retrospective expense incurred by entering in advance.

*Guardian.*

All moneys intended for the use of students are required to be transmitted to the College Register, who acts as fiscal guardian in their behalf, and transmits to each parent, at the end of every term, a detailed account.

*Annual Expense.*

College bills, including board in the Hall, .....	\$98 00
Fuel and light, .....	8 50
Washing, .....	6 00
Total, .....	\$112 50

Students boarding out of the Hall, and students remaining in vacation, incur an additional expense for board.

The expense for clothing and pocket money, will vary according to the economy of individuals. A student who remains in vacation, may, with *strict* economy, clothe himself and pay all his other bills, with less than \$200.00. A student not strictly economical, and who travels in vacation, will require from \$ to \$

**CHARITY STUDENTS.***Their Annual Expense.*

Board in the Hall,.....	\$36 00
Wood and light, .....	6 00
Washing, .....	6 00
<hr/>	
Total,.....	\$48 00

*Residence.*

Rooms are assigned the students in the same edifices that are occupied by the President and Professors, and their respective families.

*Instruction.*

The classes are divided into Sections, according to attainment, or choice of studies, and the several Sections are instructed by the President and Professors.

*Government.*

The government is, for the most part, parental and preventive, and devolves on the President and resident Professors. Those students who do not cheerfully submit to it, are silently dismissed. No student is allowed to visit taverns or groceries; to be out of his room at night or to go out of town at any time, without permission; nor is any society allowed to hold its meetings at night.

*Exercise.*

Gymnastics and other athletic exercises are encouraged, and ample grounds are furnished free of expense, for those who prefer devoting their hours of recreation to agricultural pursuits.

*Commencement.*

Commencement is on the 4th Wednesday in July; after which there is a vacation of six weeks.

*Vacations.*

There are two other short vacations, the one sometime in December, the other in April. The Seniors have no additional vacations, nor are there any holydays. It is desirable that students should either return home, or visit their friends during the vacations. And when parents can not provide for this, the faculty should be apprized of it, that provision be made for their instruction and government at college.

*Merit Roll.*

An accurate and daily account of the delinquencies of every student, and also of the degree of his attainment, in conduct, scholarship and attendance, is kept, and the summing up of these items determines the place of each upon the Merit Roll; a copy of which items is transmitted to the parent.

*Examinations.*

A committee is annually appointed, who examine the several classes publicly, at the close of each term, and make a written report thereof.



**IN SENATE,**

**February 5, 1833.**

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**REPORT**

**Of the committee on canals, on the bill for the construction of the Chenango canal.**

Mr. Van Schaick, from the committee on canals, to whom was referred the act which has passed the Assembly for the construction of the Chenango canal,

**REPORTED:**

That they have had the same under consideration, and are of opinion that it ought to become a law.

The immense advantages which the Erie and Champlain canals have conferred upon those sections of the country through which they pass, have increased the comforts and improved the condition of the people in an extraordinary degree. Other portions of the State are also desirous of acquiring similar benefits by the aid and patronage of the government. To none is any aid so justly due as to that secluded and extensive region which the Chenango canal is intended to traverse. Reasons of a paramount nature alone ought to induce the Senate to refuse its approbation of this enterprise. The spirit of improvement should not be unnecessarily repressed, by a too cautious policy; and the picture of a nation bound together by equal laws, by mutual benefits and a common interest, is too engaging and important to be disregarded in the estimate we may make of the value of this project.

Are not the counties that have petitioned for this work entitled to claim from us a proportionate share of the advantages which we are able to dispense, by a judicious application of the credit and resources of the State? It is not possible to neglect such con-



siderations, without incurring the censure which always attaches to a selfish or feeble policy.

Your committee are therefore impressed with the conviction that unless it can be shewn that the construction of the Chenango canal would materially diminish the revenues of the State, the work should be undertaken.

And in relation to this point they will only observe that the question of the utility, expense and revenues of the proposed canal, and of its ability to maintain itself, have been so frequently reported upon and discussed in the Legislature, that they do not consider it necessary to go over the same grounds again. But they believe the statements to be true which represent that the expense of the construction will not exceed one million of dollars.

The anticipations of revenue are, from their very nature, more uncertain, and may fall short of the most sanguine of the estimates that have been made. One of these gives the income of the canal at \$126,821, and expenditures and interest on the debt \$87,916; leaving a surplus in favor of the work of \$38,905 per annum.

The conjectures and estimates, by which this result is obtained, appear to be supported by just and reasonable views of the case. But even if it were not so, and upon the supposition that the canal will maintain itself until five or six years after its construction, there exists no adequate objection to the undertaking on that account; because it can seldom happen that the best public works produce a profit immediately after their completion. The business they acquire is consequent upon the improvement, and must have time to grow.

Independently however of any pecuniary considerations which may be justly applicable to this subject, your committee find sufficient inducements to report in favor of the bill, in a knowledge of the facts, that the canal is ardently desired by an extensive and interesting section of the country; that in a few years there will be found half a million of people living in its vicinity, to be benefitted and rendered happy by its commerce; and that the State can construct it without prejudice to any other interest.

**IN SENATE,**

**February 6, 1833.**

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**REPORT**

**Of the committee on the judiciary on the report of the Secretary of State, in reference to the publication in the several counties, of the amendments to the Constitution, recommended by the Legislature of 1832.**

Mr. Beardsley, from the committee on the judiciary, to which was referred the report of the Secretary of State in reference to the publication in the several counties, of the amendments to the Constitution, recommended by the Legislature of 1832,

**REPORTED:**

That from the report of the Secretary of State, it appears that copies of the several resolutions for amending the Constitution, "were transmitted for publication to each of the counties in the State, in which there was a newspaper printed, in time to be published three months previous to the last general election, in pursuance of the resolutions of the last Legislature."

It also appears from his report, and from affidavits submitted, that publication for three months preceding the election, were made in a great majority of the counties of this State, as well as in the State paper.

That in all cases where affidavits of publication have been neglected, except in the case of the Oneida Observer, papers have been furnished at his office containing the publication of the amendments.

It therefore appears that in all the counties in which newspapers are printed, except in the county of Oneida, the proposed amendments.

[Senate, No. 45.]

ments have been published, although it does not appear that publications were had in all for three months.

From the fact that the publishers were requested to make publication for three months, and that the resolutions proposing amendments were actually inserted in papers in all counties except Oneida, the committee are of opinion that without affidavits to that effect, they may reasonably presume that notice was given for three months agreeably to the request of the Secretary of State, in the few counties from which affidavits have not been received.

In relation to the county of Oneida, the committee have no reason to doubt that notice was also given.

But even if it was omitted, they are of opinion that sufficient notice has been given to justify the action of the Legislature.

The Constitution of this State requires three months notice to be given of all proposed amendments, but does not prescribe how that notice shall be given. (See 8th Article.)

The resolutions of the last Legislature, proposing amendments, directed notice to be given in each of the counties where a newspaper was printed.

Although there is no evidence before the committee that notice was given in Oneida, still they believe the provisions of the Constitution have been complied with.

To concede that an omission to publish notice in a single county would defeat the object of the Legislature in the proposed amendments, might concede the power of a single printer to defeat the amendments by refusing to publish.

The committee, however, have already stated that they have no reason to doubt that the requisite notice was given in Oneida.

They therefore assume, that the notices are sufficient.

In this assumption, they find themselves sustained by precedents in each branch of the Legislature in 1826.

On propositions to amend the constitution that year, it will be found by referring to the Journals, that evidence of publication of notice was much more defective than at present, (see report of

judiciary committee, in Senate Journals of 1826, pages 30 and 31,) and yet the notices were held sufficient.

The committee, therefore, recommend the consideration of the proposed amendments. The first is in the following words:

“That the duties on the manufacture of salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, and by the tenth section of the seventh article of the Constitution of this State, may at any time hereafter be reduced by an act of the Legislature of this State, but shall not, while the same is appropriated and pledged by the said section, be reduced below the sum of six cents upon each and every bushel, and the said duties shall remain inviolably appropriated and applied as is provided by the said tenth section.

“And that so much of the said tenth section of the seventh article of the Constitution of this State as is inconsistent with this amendment, be abrogated.”

In reference to this proposition, the committee submit the following resolution.

*Resolved*, That the Senate do agree to the said amendment.

The second resolution for amending the constitution is in the following words:

“At the end of the tenth section of the fourth article of the said constitution, add the following words: “Except in the city of New-York, in which the mayor shall be chosen annually by the electors thereof qualified to vote for the other charter officers of the said city, and at the time of the election of such officers.”

To this the committee submit the following resolution:

*Resolved*, That the Senate do agree to the said amendment.

The third resolution for amending the constitution is in the following words:

“The duties on the manufacture of salt, as established by the act of the fifteenth of April, eighteen hundred and seventeen, or as may be established by any amendment to the constitution, and the duties on goods sold at auction, as now established, excepting therefrom the sum of thirty-three thousand five hundred dollars,

otherwise appropriated by the said act, shall hereafter be and remain inviolably appropriated and applied to defraying the expenses of administering the government of this State; nor shall the duties on the manufacture of salt aforesaid, nor the duties on goods sold at auction, as established as aforesaid, be at any time hereafter reduced or diverted from the aforesaid object, until the full and complete payment of the principal and interest of the money borrowed, to make and complete the Erie and Champlain canals."

And to this proposition the committee submit the following resolution:

*Resolved*, That the Senate do agree to the said amendment.

**IN SENATE,**

**February 1, 1833.**

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**ANNUAL REPORT**

**Of David B. Wheeler, Inspector of sole leather, for  
the village of Auburn.**

*The Hon. the President of the Senate :*

Permit me, sir, through you, to present to the Legislature of the State of New-York, my report as Inspector of sole leather, appointed for the village of Auburn, and also as one of the Inspectors appointed for the county of Cayuga, of the same article, in compliance with the requisition of the Revised Statutes.

From the time of my appointment in March, 1832, to January 1st, 1833, I have examined and sealed within the village, and other parts of the county of Cayuga, 2,720 sides of sole leather, all which I judged entitled to the impress "good," except 84 sides, which were stamped "damaged," or "bad."

Fees, at 4 cents per side, .....	\$108 80
Expenses, horse hire, rent, storage, &c. ....	26 65
	<hr/>
Emoluments clear, .....	\$82 15
	<hr/>

On reference to the 197th section of title 3d, chap. 17, part 1st, Revised Statutes, I find it is the duty of each Inspector to "communicate in his report such information possessed by him, as may tend to improve the quality of the article subject to his inspection."

In compliance with this requisition, I would beg leave respectfully to suggest an amendment to the existing laws in two particulars, which in my opinion would stimulate the honest, enterprising manufacturer, to improve the quality of his goods, as it would ensure to him a preference in a foreign market in proportion to their

intrinsic value; of this preference he is now deprived by a practice pursued by one or two of our tanners in this county, and (if my information is correct,) by some others in other parts of the State. The practice alluded to is this—their leather, which they intend to send out of the State, they stamp upon each side, either with their own name, or the name of some person in their employ; and with such name they stamp all the other marks, as to weight and quality, which the proper officer is by law required to place upon that which passes through his hands; and this leather, where the name of the Inspector for the place whence it come is unknown, so far as marks are evidence, claims, and obtains the reputation of “New-York inspected leather,” and the honest consumer, for whose security the law was intended, purchases it with the same confidence, that he does that in the same market, which is sent there by the upright manufacturer, and which has been by him submitted to the scrutiny of a disinterested person, who is bound by oath to do justice to all interested. My humble opinion is, that the intention of law, is to secure the honest consumer against fraud, either in weight, or quality; but by this practice, so far as marks are concerned, the probability of his being deceived is increased.

Secondly. The law intends that the honest, enterprising tanner shall send his leather into market with a legal recommendation in proportion to its intrinsic worth. Now I would ask if his motives to exertion are not diminished, when he finds an inferior article, recommended by the same marks, in a market where few can possibly know, that they were placed there surreptitiously. I find by the Revised Statutes, vol. 1st, page 572, section 193, that any person counterfeiting the marks of an Inspector, incurs a heavy penalty; but the opinion of many lawyers is, that a tanner has a right to mark his leather with what he pleases, and particularly, if he uses his own name, and that he subjects himself to no penalty, unless with such marks he uses the name of the Inspector for the time being, although all the marks used may be exactly such as the law commands the Inspector to use, the name excepted.

Now, if this opinion is correct, I know of no remedy except by an enactment, declaring any mark placed upon a side of sole leather, which the Inspector is required by law to place upon the sides which pass through his hands, by any person other than the Inspector legally authorized, shall be deemed a counterfeit, according to the meaning of the section referred to.

A majority of the tanners in this county are men governed by as high a sense of honor, and by principles of as sound integrity as any of our citizens, and the leather they make will bear a comparison with any made in the State; and while they are exerting themselves at a heavy expense to improve the manufacture of this article, they ought to be protected from the competition they meet in a foreign market, by deceptive marks.

I beg leave to suggest a second amendment which appears requisite, viz: That every Inspector of sole leather, before he enters upon the duties of his office, shall give a bond, with ample security, for the payment of any penalty he may incur by dishonesty or carelessness. My reason for suggesting this is, the law makes the Inspector liable to the purchaser for any deficiency in weight over five per cent from his mark; and he is also liable to the vender for over deductions on account of wet; these variations may in some cases amount to a considerable sum, and as persons may be appointed to the office who are irresponsible in point of property, I am of the opinion that such a provision would increase the vigilance of the officer, add much to the security of the dealers, and stimulate the manufacturers to exertion, both in making and preparing their leather for market.

A third particular now occurs to me, in which the law may be improved by a further enactment. Under the old law regulating the inspection of sole leather, any person interested in manufacturing or dealing in leather, was disqualified from holding the office of Inspector. In revising the laws, this provision was omitted. I really think such a provision requisite, and for obvious reasons will so appear to the Legislature.

All which is respectfully submitted.

DAVID B. WHEELER.

AUBURN, CAYUGA COUNTY, }  
January 21st, 1833. }





**IN SENATE,**

**January 26, 1833.**

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**REPORT**

**Of the committee on banks and insurance companies, on the report of the Acting Comptroller, in regard to the Bank Fund.**

The committee on banks and insurance companies, to whom was referred the report of the Acting Comptroller, in regard to the Bank Fund,

**REPORTED:**

That the whole amount of the banking capital, incorporated in this State, now amounts to \$25,381,460. Of this amount, the sum of \$20,581,600 is now, or soon will be, subject to the safety fund; so that the amount of that fund, even in the event that no more banks should be incorporated, will ultimately be \$615,948. Hitherto the contributions to the fund, and its consequent accumulation, have not been as rapid as they will be hereafter. The late period at which some of the banks were incorporated, and the charters of others renewed, has produced this result. Henceforth, however, the payments to the fund will exceed \$100,000 per year, until its full amount is attained.

The public and the banks are alike interested in the preservation and productiveness of this large amount. It was the intention of the Legislature, and the expectation of the people, that this fund should be preserved entire, and be impaired only when the

protection of the community, against the consequences of a bank failure, demanded its expenditure. This is evident from the provisions of the safety fund law, which declares that the annual payments of the banks shall be inviolably appropriated and applied to the payment of such portions of the debts, exclusive of the capital stock of any of said corporations which shall become insolvent, as shall remain unpaid after applying the property and effects of such insolvent corporations.

At the same time it was equally the intention of the Legislature and the promise held out to the banks, that the fund should be productive, and its income be reduced only by the salaries of the commissioners; for the same act provides, "that the income arising from the fund, after deducting thereout the salaries of the bank commissioners shall annually be paid by the Comptroller to the several corporations by which the said fund shall be created, in proportion to the amount contributed by each."

To produce both these results, the law not only declares that the fund shall be the property of the corporations by which the same shall be paid, but that it shall be the duty of the Comptroller to invest the same, and all moneys belonging thereto, in stocks of the United States, or of this State, or of the cities of New-York and Albany.

The committee believe it to be due alike to the banks and to the community, that proper inquiry should be made, whether this intention has been carried into effect, and if not, what are the causes of obstruction.

It appears from the report of the Acting Comptroller that the sum of \$26,983.67 was paid to the fund during the year 1830. This sum promptly invested, as the law required, would by this time have produced an income of nearly \$2,600. A similar investment of the contributions of 1831, which amounted to \$62,626 68, would now have yielded an income of about \$3,000; making a total of \$5,600, which it was expected would have been produced as income by this time. Yet the report of the Acting Comptroller shows that only \$1,707.21 has yet been realized on that account. But this is not all. The whole fund now amounts to about \$183,000.

Of this sum, \$8,082.40 is invested in canal stock, and \$80,000 in State stock, leaving about the sum of 90,000 uninvested and idle in the treasury, which we are told by the Comptroller in his annual report, "may remain so deposited for a long time before favorable terms of investment can be obtained."

Here too there may be a loss of income to the amount of \$5,000 per year, and unless the obstacles in the way of a proper investment are removed, the greater part of this fund, which will soon amount to more than \$600,000, may long remain unproductive and unsecured.

The banks are mainly, but not solely, interested in providing a remedy for this evil. It is true that the income of the fund belongs to them, but not until the salaries of the Commissioners, amounting to \$4,500 per year, are first discharged from it. The sums already paid to the Commissioners for that purpose amount to \$10,897.96. Of that amount, \$1,707.21 has been paid by the income already mentioned, and the remaining \$9,190.75 have been paid from the fund itself, and have caused a diminution of so much of its capital.

It is true that this deficiency is to be made up from the revenue hereafter to be derived. At present, however, the investments do not produce revenue enough to pay the salaries of the Commissioners as they fall due, but there will be an annual deficiency of revenue to meet expenses of \$95.88. Thus, unless some remedy is found, the banks will be deprived of the income guaranteed to them by our laws, and the deficiency already created in the capital of the bank fund will be continued and become greater every year.

This difficulty results, we apprehend, not from the conduct of the officer charged with the care of this trust fund, but from that provision of the statute which confines his investments to stocks of a particular denomination.

During the session of 1831 the attention of the bank committee of the Senate was called to this subject by the Comptroller, and that committee then reported to the Senate that the stocks mentioned in the act were not to be had, except at a premium of two or three years interest on the capital invested, and that the Comptrol-

ler, deeming such a disposition of the fund incompatible with the interests of the banks, had preferred letting it remain unemployed in the treasury, in the hope that a more favorable state of the money market might occur and enable him to invest with a better prospect of income.

That hope the committee deemed problematical, as many of the securities were annually diminishing in amount by the payments made on the principal, while much of what remained was in the hands of those who held them for income only, and rarely, if ever, offered them for sale.

The prospect of investing in the specified stocks, that committee believed, was at least uncertain, if not impracticable. Impressed with this belief, and having in view the large and important increase to the fund, which has since occurred, the committee then recommended an enlargement of the powers of the Comptroller, in order that a safe and profitable investment might be made in other than the specified securities.

This recommendation was not sanctioned by the Legislature of that year.

During that year, however, the Comptroller was able to purchase for the fund, canal stock, amounting to \$8,082.40, which left in the treasury, at the end of that year, \$12,118.37, uninvested. In his annual report to the Legislature in 1832, (Assem. Doc. No. 4, p. 21,) he adverted to the situation of this fund, and remarked that "moneys had been kept constantly in readiness to make the investment of the remaining part of the capital of this fund, and offers had been made for stocks, at as high a rate of premium as he believed he should be justified in paying, by the institutions interested in the fund; but he had not been able to obtain them. He was informed that foreign capital in large amounts was seeking investments in the stocks of this country, and that coming from places where money was cheaper than with us, the holders offered a higher premium for the desirable stocks than would be considered discreet to pay as an investment of capital here;" and he submitted to the Legislature whether it would be advisable to enlarge his powers of investment, or to compel him to invest the fund in the specified stocks, regardless of the sacrifice.

On the 27th Jan. 1832, the Comptroller, at the call of the Senate, reported to the Senate that at that time the fund amounted to \$85,963.37; and that all of it was uninvested, except the small sum already paid out for canal stock. And again on the 19th of March, 1832, the same officer reported to the Assembly the then state of the fund, which had been in no respect changed, except by a few payments to it, and he reiterated his suggestions as to the difficulties of investment without some modification of the law.

From this review it is manifest that the evil lies with the law, and not with the executors of it. Yet, notwithstanding these repeated suggestions of the fiscal officer of the government, and notwithstanding that the bank committees of both houses united in a recommendation of measures intended to afford an adequate remedy, no alteration has been made in the law, and the capital of that fund has continued to diminish, by payment of salaries and premium on investments, until it is \$10,275.69 less than of right it ought to be, and with but slight prospect of future improvement.

But this is not all the difficulty attached to this subject. The diminution of the capital of the fund caused by the payment of the salaries can be made up to it by the income to be produced by suitable investments. But it is otherwise with the deficiency caused by the payment of premiums; that cannot be charged to or be refunded by the income, whatever it may be.

The law directs a resort to particular stocks, which cannot be procured at par, yet makes no provision for the advance. Those stocks bear in market a price varying from 10 to 20 per cent premium, and the Comptroller is entirely at liberty to invest the whole of the fund in such manner as to reduce its amount from \$600,000 to \$500,000 or \$550,000. Hence a diminution of the fund itself is inevitable from the law as it now stands; for it will be reduced, either by the salaries of the Commissioners or by the premiums paid for the desired stocks.

To the banks it may not be a matter of so much consequence whether the loss happens to them in capital or income. But to the people it is a matter of much moment, that this fund should not be diminished under any pretence. While, then, the banks have a right to expect that we will protect them against the loss which

seems so inevitable under the existing law, the public security demands that we preserve unimpaired a fund which has elevated the banking character of our State, and has shed abroad upon the community a confidence in our institutions which will be productive of the happiest results.

The safety of the fund is a matter of still more importance, in which the banks and the State are alike interested. It ought to be deposited beyond the reach of danger, and any other disposition of it is calculated to excite well grounded alarm. And it is a matter of surprise to the committee, that its present situation has not made a deeper impression upon the Legislature.

Where then is it? It lies in the vaults of a bank having only a small capital of \$225,000, *and not subject to the safety fund*, and the anomaly is presented of drawing from 58 banks, possessing a capital of more than 20,000,000 dollars, subject to frequent examinations and other provisions for the security of the public, and bound together by a common tie, a portion of their funds to guard against their failure, and intrusting it to the care of an institution with only one-tenth part as much capital and free from all these salutary restraints and investigations.

The committee repeat, that they do not by these remarks mean to be understood as expressing any disapprobation of the conduct of the officer charged with the care of this trust fund. He has but obeyed the laws as he found them, and the error is in the provisions of those laws. Nor do they intend to raise any doubts as to the perfect solvency of the institution referred to; in that and in the integrity and capacity of its chief officer, the committee have entire confidence.

But when they reflect that that institution is as liable to misfortune and bankruptcy as others which have flourished and fallen before it, and perhaps more so, from the fact that other banks are not bound by the ties of our system to sustain it in its hour of peril. When they reflect, too, that the loss of this fund will result in the deprivation of the security intended by that system, or in the imposition of a direct tax upon the whole people, to supply the deficiency: And when they advert to the disastrous consequences sure to flow from such a calamity, in the destruction

of public confidence and in the overthrow of our system, and the consequent ruin of hundreds of our fellow-citizens, they are well persuaded that they will be fully justified in their efforts to remedy the evils complained of.

To effect that object they have prepared a bill and directed their chairman to ask leave to introduce the same.





**IN SENATE,**

**February 11, 1833.**

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**RESOLUTIONS**

**Offered by Mr. Hubbard, by way of amendment of  
and in addition to, the resolutions by the joint  
committee.**

*Resolved*, (if the Assembly concur,) that we regard the right of a single State to make void within its limits the laws of the United States, as set forth in the Ordinance of South Carolina, as wholly unauthorized by the Constitution of the United States, and in its tendency subversive of the Union and the Government thereof.

*Resolved*, (if the Assembly concur,) that we do dissent from the doctrine, that a single State has a right to withdraw itself from the Union against the wishes of its co-States, whenever in its sole judgment the acts of the Federal Government shall be such as to justify the step.



**IN SENATE,**

**February 9, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of  
Jacob Shew.**

Mr. Sherman from the committee on claims, to whom was referred the petition of Jacob Shew, a soldier of the revolution,

**REPORTED:**

That upon an examination of the subject referred to them, it appears that the petitioner, a respectable inhabitant of the county of Montgomery, served as a soldier in the war of the revolution, in what was then called the "new levies," raised for the defence of the frontiers of the State. In order to fill up the corps of fifteen hundred men ordered to be raised for that purpose, as well as the three regiments to serve in the army of the United States, the act of 23d March, 1782, was passed, holding out additional inducements in the shape of bounty lands.

The third section of that act, which is applicable to the case of the petitioner, reads as follows: "Whereas the inhabitants of this State are so greatly distressed for want of specie that it is become indispensably necessary that further aid should be afforded them to raise such of the said fifteen hundred men as may not enter into any of the regiments aforesaid: Therefore, be it enacted, that every militia class which shall, within twenty days after notice, &c. deliver a man to be furnished thereby in manner aforesaid, shall be entitled to a gratuity of two hundred acres of land, out of the unappropriated lands belonging to this State, in like manner as classes delivering a man to serve in any of the said regiments."

Under this act, it appears that a class of militia in Capt. Little's company, in the town of Johnstown, in the county of Montgomery, (then Tryon county,) of which Garrit Van Brockler was class leader, furnished and delivered your petitioner as a soldier for the service in the State levies; that accordingly he was to receive the bounty land which the class would become entitled to by virtue of the said act. Having enlisted for the service required in March or April, 1782, he was placed under the command of Capt. Abner French, in the regiment of State levies under the command of Col. Marinus Willett, and served out the time of his enlistment, being nine months, or to the 1st of January, 1783, and was honorably discharged; that during that time he was in active service with the Indians on the frontiers, and was in the engagement called the battle of Hall's Farm.

Your petitioner sometime ago had the formal papers necessary to show that he had complied with the requirements of the law, such as a certificate of delivery to the officer commanding the levies; of the muster master, to show that he served, and also of his being the assignee of the class. That to account for the non-appearance of these papers, which was the cause of his not having before made application to the Legislature, he states, that in the year 1785 he employed a man by the name of James Parr to locate and obtain his bounty land, which by law was to have been located in the county of Tioga; but soon thereafter the said Parr died insolvent, and the petitioner has never been able to regain his papers.

These papers were never presented to the Surveyor-General, nor has any land been located or granted to the class of the petitioner.

To supply the deficiency of these papers, the petitioner has produced the best evidence the nature of the case admits of, which consists of the sworn statement of the petitioner, who is a man of veracity and respectability, having been a delegate of his county in the Assembly of this State; also a certificate of Mr. Simon Veeder, who has had a seat in both branches of the Legislature, and who was likewise in active service during the revolutionary war.

This evidence, emanating from a source so respectable, has received much weight and consideration in the minds of the commit-

tee, and precludes the idea of a disposition to abuse or mislead the confidence of the Legislature. It goes to show that the petitioner has substantially complied with the law, and is entitled to his bounty.

The committee being satisfied of the justness of the petitioner's claim, and understanding there is no unappropriated lands belonging to the State, recommend that a pecuniary compensation, in lieu of land, be paid to the petitioner; and for that purpose ask for leave to introduce a bill.



**No. 50.**

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**IN SENATE,**

**February 9, 1833.**

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**ANNUAL REPORT**

**Of Lewis Warner, an Inspector of Sole Leather for  
the county of Oswego.**

*To the Honorable the Legislature of the State of New-York.*

From the 1st day of January, 1832, up to the 1st day of January, 1833, inclusive, I have inspected eight hundred and eighty-four sides of sole leather, qualities, viz: seven hundred and ninety-six sides of good, and eighty-eight sides damaged. The amount of fees is thirty-five dollars and thirty-six cents.

**LEWIS WARNER,**  
*Inspector.*

*Albion, 25th January, 1833.*





**No. 51.**

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**IN SENATE,**

**February 9, 1833.**

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**ANNUAL REPORT**

**Of A. Russel, an Inspector of Sole Leather in the  
city of Albany.**

*To the Honorable the Legislature of the State of New-York.*

The subscriber, inspector of leather of the city of Albany, would respectfully report, that he has inspected since the 1st of January, 1832, until the 1st of January, 1833,

11,053 sides sole leather, at 4 cents, .....	\$442 12
1,204 sides harness leather, at 2 cents, ..	24 08
	<hr/>
	\$466 20
Deduct for labor, .....	61 28
	<hr/>
	\$404 92

**A. RUSSELL,**  
*Inspector.*

*Albany, February 8th, 1833.*



**No. 52.**

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**IN SENATE,**

**February 8, 1833.**

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**ANNUAL REPORT**

**Of the Trustees of the Sailors' Snug Harbor.**

**NEW-YORK, 31 DECEMBER, 1832.**

*To the Honorable the President of the Senate of the State of New-York.*

I have the honor to present the accounts of the Trustees of the Sailors' Snug Harbor, from 31st December, 1831, to the 31st December, 1832.

With the highest respect,

I have the honor to be,

Your obedient humble servant,

**WALTER BOWNE,**  
*President.*



## REPORT, &c.

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To the Trustees of the Sailors' Snug Harbor, the following report of the treasurer is respectfully submitted, showing the receipts and disbursements on account of the trust, from 31st December, 1831, to the 31st December, 1832, together with a statement of the funds of the trust, and of the annual income.

Received for 100 shares Mutual Insurance company	
stock \$5,000, sold for.....	\$5,259 32
deposit with Life & Trust company	
\$4,000 and interest,.....	4,066 67
on account of Isaac S. Schuyler's bond for	
\$5,000,.....	2,000 00
1/2 of \$723.48 United States 3 per cent	
stock paid off,.....	482 28
30 shares Manhattan C. stock, \$1,500,	
sold for .....	1,892 75
42 shares City Bank stock, \$1,890, sold	
for .....	2,191 63
dividends on bank and insurance stock,....	3,068 94
interest on bonds and mortgages, .....	2,601 07
house and ground rent,.....	14,988 07
interest on outstanding balances,.....	28 23
Peter Davy's note, \$153 and interest \$3,...	156 00
materials of 2 old tenements, pulled down,.	30 00
cash, balance on hand, 31 December, 1831,	99 99
	<hr/>
	\$36,864 95

Disbursed, sundry payments for building	
the Asylum,...	\$21,604 67
less, return freight	
on iron pipes and	
empty lime barrels,.....	85 94
	<hr/>
	\$21,518 73
payment of last instalment for	
the farm, and sundry farming	
utensils, purchase of cattle,	
manure, labor, &c.....	8,357 80
corporation assessments for pa-	
ving Eighth and Ninth	
streets, .....	2,604 91
corporation taxes and quit-rent,	765 12
	<hr/>
Carried forward,....	\$

Brought forward,....	\$	\$
Disbursed, Betsey Shields' annuity .....	100 00	
interest paid Manhattan com'y,	92 02	
treasurer's and secretary's sa-		
lary, repairs on buildings,		
premium of insurance against		
fire, and sundry petty ac-		
counts,.....	2,610 25	
		36,048 88
cash, balance on hand this day,.....		\$816 12
Main building—total amount of disbursements,.....	\$28,679 92	
Deduct, disbursed to 31st December, 1831, ..	7,075 25	
		Amount of disbursements in 1832,..... \$21,604 67
Farm—total amount of disbursements, .....	\$13,454 87	
Deduct, disbursed to 31st December, 1831, ....	5,097 07	
		Amount of disbursements in 1832, ..... \$8,357 80
<i>New-York, 31st December, 1832.</i>		
JOHN WHETTEN, <i>Treasurer.</i>		

*Statement of the Funds of the Trust.*

United States 3 per cent stock,.....	\$241 14
687 shares Mechanics' bank stock, par value, .....	17,175 00
326 " Manhattan " " .....	16,300 00
120 " Merchants' " " .....	6,000 00
25 " Mutual Insurance Comp. " .....	1,250 00
Loans on bond and mortgage, .....	43,000 00
Cash, balance on hand, .....	816 12
	\$84,782 26

*Statement of the Income of the Trust, including rent of the 59 lots which is in dispute and now in Chancery.*

Ground and house rent,.....	\$19,500 00
Dividends on bank and insurance stock, .....	2,790 00
Interest on bonds and mortgages,.....	2,595 00
	\$24,885 00

<i>Amount of Rent outstanding 31st December, 1832,</i>	
Including \$4,320, the rent of 59 lots in dispute and	
now in chancery,.....	\$5,369 80
John C. Morrison,....	\$2,580
Wm. S. Freeman,....	1,040
John H. Knap,.....	499
Phineas Freeman,....	210
	<hr/>
	\$4,320
	<hr/>
Interest due on bond and mortgage,.....	90 00
	<hr/>
Outstanding rent and interest, .....	\$5,459 80
	<hr/>

The main building for the asylum is completely under cover, with the exception of the portico which is not yet finished: the mason work in the interior of the building is finished, all to putting on the hard finish on the walls of the basement part of the first story and the hall and dome. The carpenter's work of the interior is jobbed out by contract; and the interior may be finished by the first of July or before that time.

JOHN WHETTEN, *Treasurer.*

*New-York, 31st December, 1832.*





**IN SENATE,**

**February 13, 1833.**

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**REPORT**

**Of the committee on roads and bridges, on the petition of inhabitants of Richmond county, praying for an alteration of their highway laws.**

Mr. Westcott, from the committee on roads and bridges, to whom was referred a petition of the inhabitants of Richmond county, praying for an alteration of their highway regulations,

**REPORTED:**

That before the presentation of this petition, a bill had been introduced, on notice and motion, and referred to this committee; the object of which is to place the public highways in Richmond county, (which has heretofore been regulated by a special act,) upon the same footing as in other counties under the Revised Statutes. The petitioners pray for the same arrangement as is embraced in the bill. The committee, therefore, in recommending the passage of the bill, mean to say that the prayer of the petitioners ought to be granted, except as to that part of the petition which prays that public roads may be laid out two rods wide, which the committee are of opinion ought to be denied by the Senate.



**IN SENATE,**

**February 13, 1833.**

---

**REPORT**

**Of the committee on roads and bridges, upon the petition of inhabitants of Dutchess county, praying for the repeal of the charter of the Highland Turnpike Company.**

Mr. Westcott, from the committee on roads and bridges, to whom were referred the remonstrance and petition of inhabitants of Dutchess county, against the extension of the charter of the Highland Turnpike Company, and for a repeal of that charter,

**REPORTED:**

The petitioners represent themselves as inhabitants of the several counties through which the Highland turnpike road passes, and some of them as stockholders to considerable amount. Their application seems to have been produced by an apprehension that the corporation was about to make an application to the Legislature for an extension of the time allowed by law for the construction of their road; and against such application they remonstrate. Your committee, however, know nothing of such application for an extension of the privileges of the company.

The petitioners ask for a repeal of the charter, and that the turnpike may be restored to the people as a common public highway. In stating the facts upon which this application is grounded, the committee will adopt substantially the words of the petitioners. They say, "that only parts of the road have been made, and the residue probably (and almost certainly,) never will be completed; that the parts made were badly constructed, many years ago, and have been since greatly neglected; that it has not afforded to the

public those facilities for travel which were originally contemplated; nor has it ever presented much other marks of a turnpike than mile-stones and toll-gates; that it is generally in worse order than the common highways of the country, and would be better kept and maintained by the inhabitants upon it than it has been by the company; that no dividend has ever been made or probably will be made upon its stock; that the entire management of its concerns is in the hands of one person, or at most of a few individuals; that the people living on the road seldom hear or know of any corporation or individuals interested in it, or having aught to do with it, except Mr. Joseph Howland, who appears to be president, directors, company and stockholders; that many, if not all the gates, are farmed out to persons, who pay the said Joseph Howland a certain rent in money and agree to do the work on their districts, for the privilege of collecting the tolls; that under such a system (as might be reasonably expected,) but little labor is bestowed on the road, while full tolls are collected to pay such rent to said Howland, and for the benefit of the gate-keepers; that the continuance of the said company is a public evil, without benefit to any one, except said Howland, while its affairs and the road are managed as they have been for the last fifteen years; that all public purposes would be better answered by a repeal of the charter, and by placing the road on the same footing as other common highways; that no injury would accrue to the stockholders in general by such repeal, many of whom are believed to be anxious to have the charter dissolved; that nine-tenths, and probably ninety-nine in a hundred, of the people who live on and use the road, wish the charter to be repealed."

In tracing the history of this corporation, it appears that the original charter of the company was granted by a law passed the 24th day of March, 1804, in the common form of the early turnpike acts, and containing a provision by which the company was bound to commence the construction of the road within two years, and to complete the same within eight years thereafter. Under this section of the law, it is understood that the two years passed without any proceedings on the part of the company, by which the charter was forfeited. This law, while in force, authorized the construction of a turnpike from Mount-Pleasant, in Westchester county, to Fishkill, in the county of Dutchess.

On the second day of April, 1806, the company was re-incorporated, with powers to construct a turnpike from King's Bridge to the city of Hudson, and to erect a bridge over Croton river, at which tolls were authorised to be collected, the same as for ten miles of the road, and in addition to the tolls allowed for travel on the turnpike. The company by this act was also limited to ten years for the completion of their road; and on the 11th April, 1808, a supplementary act was passed, containing, however, no important principle bearing upon the question submitted to the committee.

By the 58th section of the supply bill of the 19th June, 1812, the Comptroller was directed to draw his warrant on the Treasurer for ten thousand dollars, in favor of the directors of the Highland turnpike company, to be laid out by them in building a bridge over the Croton river, and the company was inhibited from receiving toll for crossing the same. And again, by the 24th section of the supply bill of 13th April, 1813, the sum of five thousand dollars, in addition to the grant of the preceeding year, was paid to the company to complete the bridge. By this section the tolls were restored to the company, and directed to be expended in repairing the bridge and in repairing and completing that part of the road lying between the bridge and Fishkill.

The act of April 14, 1815, extends the time for completing the road to the term of sixteen years, from 2d April, 1806, and authorizes the inhabitants on and near the turnpike to work their annual assessment of highway labor upon the turnpike, under the direction of the corporation. It is also provided by this act, that the profits thereafter to be derived from tolls shall be appropriated to completing and finishing the road, before any dividend shall be made among the stockholders. This law is declared to be a public act. A subsequent law of 3d April, 1818, varies the manner of applying the assessed labor, and directs that it be performed on the turnpike, under the direction of the commissioners of highways and road-masters. And a further act of 3d of April, 1821, again places the labor assessed upon the inhabitants under the direction of the corporation, and gives a further extension of the time for completing the road to twenty years from the date of their charter.

By an act passed 11th April, 1826, a further extension of ten years for the completion of the turnpike is granted, and the fourth

section of this act is in the following words, viz: "The Legislature may repeal, alter or modify this act, or any previous act relating to said turnpike company."

The last act in relation to this company was passed at the last session of the Legislature, and repeals the former laws by which the inhabitants are authorized to perform their annual highway labor upon the turnpike.

Thus the committee has reviewed the whole course of legislation connected with the question submitted to them, and briefly stated the substance of the various provisions which may influence a decision upon the prayer of the petitioners. The company seems to have long enjoyed the indulgence and liberality of the Legislature, to an extent not afforded to any other similar corporations. But the great mass of legislation, and the generous appropriations of money which have from time to time been devoted to the encouragement and benefit of this company, have in a great measure failed to produce the beneficial results promised to and anticipated by the public. There can be little doubt that the corporation has in many instances fallen short of a strict compliance with the terms of their charter, and on various occasions have forfeited their corporate privileges; and this may be true of many other turnpike companies; but as they have in most instances proved unprofitable experiments for the stockholders, though advantageous to the improvement of the country, they seem to have been indulged by general consent.

The particular instance under consideration, however, presents a strong case. About three hundred petitioners ask for a repeal of the charter upon the grounds stated in their petition. The company has existed about twenty-seven years, and their road is still unfinished. The parts which have been made are now very imperfect, and there seems to have been no adequate exertion for their improvement. The bridge across Croton river is in ruins, and absolutely impassable and useless, notwithstanding the liberal appropriation of fifteen thousand dollars from the public treasury for its erection and support. The whole road, in its present condition, affords but very little accommodations for travellers; and as it passes through a great extent of dense and wealthy population, it seems probable that the annual highway labor of the inhabitants on and near the road would produce a better avenue for travellers

than can be reasonably hoped for under the present arrangement. The recent legislation upon this subject, which has been accepted and acted upon by the company, has clearly given the Legislature a right to repeal, without involving a question on vested rights; and if the facts stated by the petitioners be true, which the committee has no reason to doubt, (for they are not denied,) it seems just and expedient to dissolve the corporation, and to declare their road a common public highway.

In accordance with this conclusion, the committee has prepared a bill, which (with leave of the Senate,) they will introduce.





**IN SENATE,**

**February 14, 1833.**

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**REPORT**

**Of the committee on finance, on so much of the Governor's message as relates to that subject.**

Mr. Bronson, from the committee on finance, to whom was referred so much of the Governor's message as relates to that subject,

**REPORTED:**

That the committee of last year, constituted like the present, presented to the Senate an elaborate report, in which they discussed the only two projects for revenue, which they believed the public were prepared to entertain, viz: 1st. That of creating a debt which should look to the canal tolls for extinction, after they should relieve themselves from constitutional pledges, by the payment of the debt incurred for their construction; and 2nd, that of direct taxation.

In relation to the first project, the committee said:

"They object to the creation of a debt to be redeemed by our public canals, or other works, for the following reasons:

"1st. Because it is unjust.

"2d. Because it is imprudent; and

"3d. Because public works are not legitimate subjects of revenue."

The committee beg leave to refer the Senate to their former report on these subjects, as the result of careful and patient in-

[Senate, No. 55.]

vestigation, and to add that subsequent reflection has not impaired their own confidence in the force and validity of its arguments.

They now propose to fortify and illustrate some of the principles inculcated by that report; and

1st. They believe our canals cannot be relied upon for future revenue, to discharge accumulated debts in aid of government.

2d. If the canals could yield an abundant and certain revenue, it is believed sound policy would reject it, and wise legislation would not lay upon them the slightest burthen beyond their cost and maintenance.

Although the committee may incur the imputation of arrogance, they hope not to be charged with want of respect for the opinions of the Governor, by opposing their own to his on the subject of canals, particularly when his approach more nearly to theirs than do those of his predecessors in office, or of ours in the Legislature.

The opinions alluded to are, generally, that our system of public improvements, which has been commenced so auspiciously, and executed with such signal success, contrasting so favorably with those of our less fortunate neighbors, should be persevered in, and gradually extended, until all parts of our State shall feel its benefits; until all who have been taxed directly or indirectly for this object shall participate in our canals. That although the cost and revenue of a canal, being one of the tests of its utility, should be carefully estimated and allowed their due weight in authorizing its construction; yet these opinions admit that incidental benefits resulting from the work should also bear upon the question; that lack of revenue for a few of the first years does not forbid the undertaking; that the prospect of developing new resources, increasing the quantity of productions and extending the trade of a section of country will warrant the enterprise; and finally, that its own incapacity to yield revenue may be atoned by its contributions to other works yielding revenue, or by extending the circulation of taxed commodities, thereby aiding the treasury; or by congregating upon its borders a population that will at some future period realize those objects, and justify a work which, in its inception, promised but little.

These maxims are sound, and would be useful, so far only as they could be applied to practice by the highest grade of human in

talent, skilled in all the subjects of canalling, revenue and commerce, with a love of country so strong, and principles of integrity so rigid, as to resist the bias of friendship, interest, gratitude, and ambition itself; to such a tribunal, guided by these maxims, the duty of selecting sections of country and subjects for improvement, might be safely confided, and there would then remain no other objections to public canalling than such as grew out of the difficulty of applying public funds, and managing public revenues with economy.

But the committee disclaim any want of respect for themselves or their legislative associates, when they say, that in their judgment the tribunal to whose decision this subject must be committed, is not, and cannot be of this high order, and is not competent to decide understandingly, questions so complex, and so foreign to their pursuits; add to this incompetence some unworthy and many improper motives may be brought to bear upon the subject, and exert their influence all on the side of projected improvements.

Local interest, political preferment, gratitude for past and the hope of future favors, private friendships, simplicity and credulity all lend their aid to the project, while no such influences will array themselves on the side of the treasury, and against projected improvements, friendships cannot be reciprocated, gratitude indulged, or political preferment attained by defeating a work of doubtful utility; even the laudable motive of ambition for future fame is discouraged by the reflection that the merit of attempting to defeat a bad measure can only be appreciated after the measure has prevailed and the evils have been inflicted.

With such a bias to the side of canals, and with so wide a field for conjecture among incidental benefits, developing new resources, future revenues for itself, and tributary revenues for its neighbor canals, &c., it is hardly credible that a project can be started so unpromising as not to prevail at last.

Another opinion is equally prevalent, and as the committee believe, equally mischievous, tending with all its force to multiply unproductive canals—this opinion inculcates that the benefits of our canal system should be disseminated through all parts of the State by means of public credit, and that the deficiencies of the less productive works should be repaired by the excess drawn from those more productive in revenue.

An extreme case will best illustrate the principle and its operation. Imagine the Erie canal region so favorable for improvement that ten millions of dollars would construct the present canal from the Hudson to lake Erie, and the counties bordering this work so productive and rich that they can endure a tax of twenty millions, and that these ten millions of surplus revenue should be applied to the construction of a rail-road from the Hudson to lake Erie, through the southern tier of counties, which being so rugged and sterile that they could endure no tax beyond repairs and superintending; if the toll or tax should burthen the products of each district alike, then the effect of this equalizing experiment would be to impose a tax of ten millions upon the region most favored by nature for the benefit of the one less favored, impairing the value of the northern tier of counties and enhancing that of the southern, by the exact amount of these ten millions; and hence the desire to equalize not the benefits and burthens of government, but the bounties of nature; and this desire will impel the Legislature forward in this levelling process so long as there are sections of our State which require elevation, and others that will bear depression.

So prevalent are the opinions which the committee have reprobated, and so strong the inducements to improvident expenditure, that duty constrains them to declare their settled conviction that our public works will not be capable of discharging other debts than their own at a future and remote period; and that any scheme of finance predicated upon a different belief will result in disappointment, and therefore debts ought not to be contracted, looking to such revenues for liquidation.

2d. If our public works would yield an abundant and certain revenue, still sound policy would reject it, and wise legislation would not lay upon our canals the slightest burthen beyond their cost and maintenance.

Justice to the whole State demands that a public work, commercial in its character and local in its operation, should be required to refund its cost, from whatever source it may have been derived; this done, it is believed, that justice to the section of its location and public policy unite in demanding that it should be burthened no more,

The committee are of opinion there are few if any sections of our State not already occupied by public canals, so favorable to their

construction, and so rich in products, as to indemnify their cost to the public, whatever they might do under the more skilful and thrifty management of our citizens; and therefore, that all attempts to extend the benefits of our canals upon the present system will prove abortive, disappointing public expectation and impairing the utility of the present works by imposing upon them new burthens for new and unprofitable constructions. If it be asked whether our system of internal improvements must stand still, whether it has achieved all its benefits, and whether all future attempts to extend it will mock our efforts and reproach our folly, we answer emphatically, no. It is believed more benefits may be achieved by future than have been by former legislation, that these may be increased many fold and extended quite over our State, and that too without incurring the hazard of projects of doubtful utility, without the invidious preference of one section over another, equally importunate for public bounty, without elevating one section of the State by depressing another; and in short, without public money or public credit, and by means too, which shall mete out exact and equal justice to all.

The means to which the committee allude, and from which they expect such important results, are, the immediate reduction of canal tolls to the constitutional limit, and their future reduction, so soon as the canal debt is paid, to the cost of superintending, repairing, and paying to the general fund an annuity equal to the interest on the capital, which has or which may have been diverted from that fund by means of the canals.

It is believed, considering the tendency of low tolls to increase commerce, and of this *increase* of commerce again to reduce tolls, that such reduction may ultimately reach so low as one-third of their present rate, relieving the future trade of two-thirds of the present exactions. If this be so, then not only would the benefits to the canal regions be multiplied in the ratio of this reduction, but the influence and benefits of our canals would be extended right and left beyond their present limits, and engross the trade of a region growing broader and broader as we ascend from the Hudson to the lakes north and west, extending their influence quite over the State.

If the committee do not overrate the influence of this system of low tolls it would be similar in its operation and equal in its bene-

fits to a lateral canal for every citizen of the State, residing on either side of our present canals, connecting him therewith. Such lateral canal, as far west as Oneida and Madison, could not be less than twenty-five miles in length, at Monroe forty, and at Niagara and Erie sixty; nor does it matter whether his residence be on a mountain or in a valley, remote from or near our canals, this benefit must overtake and enrich him by enhancing the value of his products and diminishing the cost of his consumption, and by annihilating distance between city and country, and bringing the producer nearer to his market. Nor is this, great as it is, the only benefit, or even the principal one, resulting from this free canal or low toll system. It will relieve the Legislature entirely from importunity for public and local improvements, and at the same time stimulate our whole population to improve their condition with their own means, and increase their commercial facilities by constructing roads, canals, and rail-roads, to the end that all may profit of our cheap public canals, for then no one can object that while a local and private work yields a scanty revenue to its proprietors, it is also made tributary to the State by the exaction of high tolls on the public works.

These numerous and local improvements, which must be quickened into life and activity by such policy, while they will develop all the resources and energies of the State, will seldom fail to reward their proprietors with a fair return for capital, being undertaken and conducted under the guidance of a principle more sure to attain success than any other, one that stands out most conspicuous in the wise ordering of nature, a principle which the committee believe should govern all commercial operations, *that of self-interest*, the principle of each caring for himself, instead of the benevolent but impracticable one of all caring for all.

And again, low tolls will enable our canals to compete successfully with the Mississippi and St. Lawrence for the trade of the west, both of which may and probably will prove too formidable for a taxed canal; to admonish the Legislature of this danger it is only necessary to say, that even now both these channels conduct to the ocean large portions of the produce of Ohio, and between them a much larger portion than seeks the same destination through our channels; that a committee of the Parliament of Upper Canada, now in session, estimate the cost of transporting a barrel of flour from Cleveland, Ohio, to tide water on the St. Lawrence, at

a less sum than that now charged by our State, for toll alone, from Buffalo to Albany, and at little more than one-third of the present cost of transporting it from Cleaveland to New-York, so soon as sloop navigation shall be completed from Lake Erie to the Ocean, of which about 30 miles canal and 340 feet lockage across the Niagara peninsula is accomplished, leaving about the same distance of canal and 200 feet lockage on the St. Lawrence only to perfect the whole, to accomplish which a bill has already passed one branch of the Parliament, appropriating 280,000 dollars.

To accomplish all these objects, no effort and no sacrifice by the State is required. It is only necessary to forego the hope of revenue from the public canals, to refrain from acts of injustice and partiality, in requiring the canal sections to furnish the means to defray the expenses of governing all, or in compelling a useful canal to give existence and sustenance to a useless one.

The canals having been rejected as a source of revenue, which cannot be relied upon, and ought not to be drawn upon, if it could, beyond the amount for which they are already indebted to the general fund, it remains to inquire whether the public treasury can be replenished by other means than direct taxation.

A proposition is now before the Legislature to release the salt and auction duties from their constitutional obligations to the canal fund, and impose upon them a like obligation to sustain the general fund, and defray the current expenses of the government until our canal debts are paid.

It is yet uncertain whether the people will consent to place these two subjects of revenue within the reach of legislation, and still more uncertain whether they will pledge them for fifteen or twenty years in advance for a specific object.

The committee would be glad to see the salt and auction duties freed from all obligations to contribute to the payment of the canal debts:

1st. Because the canals are able to discharge their own debts in due time:

2d. It is just and right they should do so without the aid of foreign and indirect revenue: and,

3d. It is better that the canal fund should not accumulate faster than it can be applied, especially when by accepting such extra-



neous contributions, the canal tolls must be prolonged until all is refunded, it is far better, as well as more just, that our canals should be left alone to pay for themselves, when it is quite certain they possess the ability to do so.

If, however, these revenues were liberated and were subject to legislation, the committee would hesitate to recommend their appropriation to the expenses of our government, in preference to direct taxation.

Whatever might have been the necessity which impelled the nation to commence the experiment of self-government, by indirect burthens, and we admit it was imperative; whatever may be the necessity which impels it now to continue the system, still no such necessity controls the counsels of our State. We are free from debt, and therefore exempt from the expedients and devices of embarrassed and bankrupt nations. We have raised up no great interests by artificial means, which demand at our hands artificial sustenance. The best mode, therefore, of defraying the expenses of our government solicits our inquiries and awaits our adoption.

It is believed that the expenses of a government administered by all, whose machinery is conducted by the heads and hands of all, should be assessed equally and openly upon all who participate in its blessings; that the agents who disburse the money should not be allowed to levy it secretly, but be compelled to disburse with one hand, while they appeal to the pockets of their constituents with the other. With such a check, the purity of our government will be maintained, its simplicity perpetuated, and lavish expenditure effectually prevented. There could then be no such occurrence as lavish or profuse expenditure. Whatever the people chose to contribute would be the exact measure of their ability and the wants of the government, and whether that be much or little, whether the government be prodigal or parsimonious, it could not err, but would always represent the wishes and the ability of the tax payers.

But in the emphatic and appropriate language of the Governor, "When the public funds are not drawn immediately from the people, a proper sense of dependance on the part of those who have the appropriation of them is lost, and a salutary check to improvident and profuse expenditure is removed. When the motive for

the constituent to scrutinize, the conduct of the representative is enfeebled, the latter ceases to feel and act under the consciousness of a due accountability. If the force of this relationship in a government like ours, be weakened, the action of the whole political system is deranged; economy is no longer regarded as a political virtue, public spirit loses its true aim, and its energies are directed to personal and ignoble ends."

However useful the principle of direct taxation may be in other governments, in ours it appears to be indispensable. A fund drawn from the people by secret and indirect means, in its disposition cannot be safely confided to an agency so numerous and so transitory as our Legislature, dividing responsibility so minutely, self-interest, that useful impulse of our natures, working wrong would work its ruin, while a fund drawn from the people by direct taxation, would be protected by the same principle. The selfish and careless legislator would dissipate the one for personal objects, while he would carefully guard and protect the other to avoid the odium which would attend a direct tax to repair such waste. An allusion to a recent instance of legislation will better illustrate the influence of direct taxes, than would the arguments of the committee.

An expensive canal project has long been before the public. Three of its agents, of high character and standing, free from all apparent motive to bias their judgments, aided by science and acting on their own responsibility, not upon responsibility divided with 160 other agents, reported that the expenditure would, in their opinions, result in an entire loss of the capital invested. With such a report, from such a quarter, it is not to be credited that a single member of the Legislature would have dared to appeal to his constituents by direct tax for such an object; but with a provision in the bill that all deficiency of revenue shall be supplied by partial, local, and indirect tax, it has commended itself to the favor of almost two-thirds of the Assembly.

Although a matter of minor importance, compared with its influence on legislation and the simplicity and perpetuity of our government, still it is worthy of consideration that indirect taxes bear less equally upon all than direct, and burthen the poor more heavily than the rich; the laborer's family would pay as much duty on the consumption of his salt, tea and canal flour, (if the

consumer paid the latter,) as his more wealthy employer; and it is on the intelligence and vigilance of the latter class, when duly burthened, that we must rely to watch and check the representatives in the disbursement of their contributions.

It is not easy to estimate the influence of a tax on an article of domestic manufacture and the industry connected therewith; it is confidently believed, however, that in the absence of the canal tax of nine cents per bushel, on salt manufactured in our State, costing less than nine cents originally, that the consumption of the article would have been doubled; that instead of one and an half millions of bushels, the present annual supply, three millions would have been required from our salines, congregating around them double their present population, requiring double the labor in wood chopping, boiling, coopering, freighting, teaming, boat and ship building, &c.

It is necessary that the trade should have acquired this expansion, creating and circulating three million bushels of salt, and then, by the imposition of a duty of more than one hundred per cent, be cut down suddenly to its present limit, in order to estimate correctly the withering influence of a heavy duty upon a branch of domestic industry.

Notwithstanding the frequent remark that direct taxes are odious, and are paid grudgingly, the committee feel bound to defend the public against an imputation so unjust and unfounded; they have no repugnance to the payment of taxes, when just and necessary, and no burthens growing out of the social compact are borne more cheerfully or discharged more promptly than direct taxes. Witness our town and county expenses, which are at least as burthensome as those of the State and nation united; these are assessed directly, and discharged with an alacrity and promptitude which characterise no other pecuniary obligation, and the same supervisor is employed for many years in succession, to impose and adjust this burthen; he loses the confidence of his constituents only when he loses sight of his duty, and direct taxes are odious only when they are unjust or unnecessary: under our present county organization no expense would attend the assessment and collection of a State tax, beyond the collector's fee; and with slight modifications from time to time, we should have a system of revenue as useful and as perfect as could be devised, with such defects

only as are incident to the frailty of human nature and the fallibility of our judgment.

Instead of deploring the necessity of a resort to direct taxes, the committee consider it a subject of gratulation, and to be hailed as an auspicious event, that the condition of our State is such that we can adopt this salutary method of raising revenue; a method, while it disturbs no branch of industry, excites no local jealousies or sectional conflicts, deals out exact and equal justice to all, and holds the representative to his duty by the strong bond of self interest.

It is true a majority of the State may impose a local and indirect tax on a minority for the benefit of all; may even draw the whole revenues from a single article of domestic manufacture, and a single and favorite mode of transferring the title to merchandise; and such majority may, if they can bring the constitution to their aid, rivet these partial and local taxes so fast upon the minority that they can not throw them off, even when they become the majority; but can it be wise, if it were just, to encourage these sectional conflicts and this fiscal warfare?

The committee recommend that our canals should be left free to perform their legitimate office, by pushing our wide commerce to its utmost limit, and by competing triumphantly with all their rivals; and that our salt and auction duties should be freed from constitutional restraint, and made subject to the control of just and liberal legislation. For revenue they recommend that reliance be had on a direct appeal to a people highly intelligent and prosperous; an appeal which, if made in the spirit of just and equal laws, can never be made in vain.

It will be perceived, by reference to the Comptroller's report, that the general fund is in effect exhausted, and that provision is required for a sum annually, equal to the amount of ordinary and extraordinary expenses: the committee therefore recommend authority be given to raise, by tax, one mill upon the dollar, of taxable property of the State, as the smallest sum that will suffice to carry on the government.

All which is respectfully submitted.



**No. 56.**

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**IN SENATE,**

**February 14, 1833.**

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**REPORT**

**Of the Committee on Roads and Bridges, on the Petitions of sundry inhabitants of the counties of Tompkins, Tioga, Broome and Chenango.**

The standing committee on roads and bridges, to which was referred the petitions of inhabitants of the counties of Tompkins, Tioga, Broome and Chenango, praying for an appropriation of two thousand dollars from the State treasury, for the improvement of a road in the county of Broome, leading to and from a mineral spring in said county,

**REPORTED:**

That the petitions set forth that there has recently been discovered a mineral spring in the town of Nanticoke, in Broome county, which experience has already proved to be highly efficacious in cutaneous affections and chronic complaints: but that the waters have not as yet been properly analyzed, and their properties and qualities are therefore but partially known. That the spring is situate in the midst of the forest, with scarce an inhabitant within a circle of ten miles; that within that circle the roads are new, rough, and dangerous. That they believe an appropriation equal to constructing good roads to said spring, will produce benefits so extensive and general as freely to merit the attention and share the munificence of the State: and they therefore ask an appropriation of two thousand dollars from the general fund for that purpose. But your committee, after a deliberate consideration, have come to the conclusion that it would be impolitic to place our old general fund, under its present feeble and debilitated state, at any such *watering place* without first having the properties of its waters more fully and thoroughly investigated, than these appear yet to have been;

[Senate No. 56.]

and to give the petitioners an opportunity of thus investigating the medical properties of said waters, your committee have come to the conclusion to report against the same; and ask that the petitioners have leave to withdraw their petition.

CHAS. K. LYNDE.

**IN SENATE,**

**February 21, 1833.**

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**REPORT**

**Of the committee on canals, on the resolution instructing the Canal Commissioners to resume the leasing of the surplus water of the Oswego canal.**

Mr. Van Schaick, from the committee on canals, to whom was referred the resolution offered to the Senate, instructing the Canal Commissioners to resume the leasing of the water for milling and manufacturing purposes, on the dams and short levels of the Oswego canal, according to their discretion, and in conformity with existing laws of the State and regulations of the Canal Board,

**REPORTED:**

That they are of opinion that it is inexpedient to adopt the said resolution, because the remuneration which the State receives is not an object of sufficient importance to justify a course of policy which may, if persisted in, obstruct the operations of the canals; because difficulties have arisen and are likely often to arise, between the Canal Commissioners and the lessees of surplus waters, concerning the construction of their grants, in the event of there being any deficiency of supply, apprehended or real, for both purposes. These risks it is deemed unwise for the State to assume. Your committee would rather advise, that if any individuals are inclined to take the risk of being subjected to detention or loss in their business, they might have permission to use the surplus waters of the canals, under the direction of the Canal Commissioners, and to be discontinued at their pleasure. And in accordance with this principle, no compensation should be received by the State, nor any engagement be entered into on its part; but an article should be taken from the applicant, stating the condition upon which the privilege of using the surplus water had been allowed.



A petition of William Van Tuyl and others for a lease of surplus waters on the Oswego canal having been referred to your committee, they return the papers, and offer the following:

*Resolved*, That it is inexpedient to resume the leasing of the surplus waters on the Oswego canal, and that the petitioners have leave to withdraw their said petition.

**IN SENATE,**

**February 25, 1833.**

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**REPORT**

**Of the select committee, on the petition of Lewis Paul Dautremont, for leave to erect a dam across the Genesee river.**

Mr. Griffin, from the select committee to whom was referred the petition of Lewis Paul Dautremont, praying for the passage of a law authorising him to construct a dam across the Genesee river, in the town of Angelica,

**REPORTED:**

That they have given the subject some little attention, and finding the said application recommended by the certificates of more than fifty of the principal citizens in that vicinity, and no remonstrance appearing, to the knowledge of the said committee, are of the opinion that the prayer of the said petitioner ought to be granted; and that therefore they pray the indulgence of introducing a bill accordingly.

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**IN SENATE,**

**February 25, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of Matthew Pratt and John Pratt.**

Mr. Sherman, from the committee on claims, to whom was referred the petition of John Pratt and Matthew Pratt,

**REPORTED:**

That the petitioners claim from the State seventy-eight dollars forty-five cents, being a balance of the proceeds of a sale of a lot of land of theirs by the State, under the following circumstances: The lot consists of twenty-five acres, being part of lot No. 44, in the East-Hill tract, in New-Stockbridge, and was originally purchased from the Surveyor-General of the State, by one David Manchester, for the sum of \$112.50—fourteen dollars and fifty cents of which was paid down at the time, and he received the usual certificate, dated 20th May, 1824.

Manchester sold and assigned his interest in the lot on the 20th February, 1826, to one Pyune Tower, and he, on the 17th July, 1826, duly assigned the same to your petitioners, John and Matthew Pratt.

The petitioners, after having entered into an agreement to sell the premises to Orsamus Pratt, discovered that they were advertised for sale by the Surveyor-General, for non-payment of interest due for the same—and as the said Orsamus Pratt preferred taking a title directly from the State, he concluded to let the sale proceed and attend on the day and bid it off; not supposing that it would sell for more than the balance due the State. But unexpectedly he found that he had to encounter a competition, and was obliged to

bid up to 225 dollars before it was struck down to him. This sum the petitioners paid, believing that the surplus would be refunded to them, according to law, whenever the same should be called for.

That in June, 1881, the petitioners made application to the Comptroller for the surplus, and was informed by him, that after deducting \$146.50, due the State for interest and costs, there was due to them the said balance of \$78.45; but that as the law authorising the payment over of surplus moneys had been repealed at the last session of the Legislature, he was not authorised to pay the same; and therefore declined doing it without an act of the Legislature for that purpose.

The committee being satisfied as to the truth of the foregoing facts from inquiry and the accompanying documents, see no reason why the balance claimed should not be refunded to the petitioners; or as they have intimated in their petition, endorsed on the bond held by the State, against Orsamus Pratt.

Accordingly the committee have prepared a bill to that effect, and ask for leave to introduce the same.

**IN SENATE,**

**February 27, 1833.**

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**REPORT**

**Of the committee on the petition of the heirs of Moses Brockway and others.**

Mr. Sherman, from the committee on claims, to whom was referred the petition of the heirs of Moses Brockway and others, and Anthony Rhodes and others,

**REPORTED:**

The committee deem it unnecessary to set forth in this report, to be again spread upon the Journals, all the particulars relating to this case, as they have been so recently before the Legislature, and are to be found on the Journals of different sessions.

The committee would, therefore, refer to them as a part of this report, and more particularly call their attention to the Assembly Documents of last session, No. 295; also Senate Documents of 1830, No. 395; also to the report of the Surveyor-General, Assembly Journals of 1826, page 511, and the report of the committee, founded thereon, page 560.

A brief view of the case, as will appear from the said documents and the accompanying vouchers, is as follows: The claim of the petitioners is, for compensation for improvements, and relates to lot number 28, consisting of about 476 acres, in Freemason's or Bayard's patent; and about 146 acres of lot number 64, of same patent.

They set forth and shew that their father, about forty years ago, purchased the said land in a wild state, of one Eli Brown, and paid him therefor, one dollar per acre: That his title failing, they were under the necessity, in order to save their improve-

ments, to purchase the same property of one Henry Platner, which they did and paid him therefor, four dollars per acre. Soon after they discovered that Platner's title was defective, and that the property was claimed by the State, as forfeited by the attainder of one Weatherhead, a former owner; in consequence of which, the settlers petitioned the Legislature to assert their claim, that they might know where to obtain a good title to the lands. Before the proceedings on the attainder were perfected, and while suspended on account of some difficulty in substantiating the fact of forfeiture by the person who discovered the same, the settlers were informed that John Thurman held a mortgage on a large tract of land covering the lots in question; and they were advised, and did effect a compromise with the said Thurman, and paid him one dollar per acre for a release of his claim under the mortgage, so far as related to the lots in question.

The State afterwards became the purchaser and assignee of the whole of the said mortgage, and paid Thurman therefor, about a dollar an acre.

The State having obtained a title in this way to a large tract of land, consisting of several thousand acres, proceeded to sell to purchasers according to the appraised value made by Wherry and Myers; and in which appraised value were included the improvements of the petitioners.

The petitioners, or those under whom they claim, as is stated, being desirous of avoiding further trouble and litigation, and of obtaining a valid title to their lands, became purchasers from the State, at the appraised value as aforesaid.

Lot number 64 was valued at seven dollars an acre, and lot 28 at six dollars twenty-five cents per acre. The petitioners shew that the improvements on said lot number 64, was worth \$3.50 per acre, and which made a part of said seven dollars: That the improvements on lot number 28 was worth \$2.50 per acre, and included in the said \$6.25.

In 1830 an act was passed in favor of Nathan Underwood, who owned a part of lot number 64, and similarly situated to the petitioners', paying him for his improvements at the same rate per acre as before mentioned.

From all the circumstances of the case, and from the best information they have been able obtain, they have come to the conclusion to report favorably on the petition referred to them, and submit the case to the better judgment of the Senate.

They ask leave to introduce a bill,





**IN SENATE,**

**March 2, 1833.**

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**MEMORIAL**

**Of the Directors of the New-York Institution for the  
Instruction of the Deaf and Dumb.**

*To the Honorable the Legislature of the State of New-York.*

The memorial of the Directors of the New-York Institution for  
the Instruction of the Deaf and Dumb,

**RESPECTFULLY SHOWS:**

That by the returns of the general census, taken in 1830, it appears that the number of deaf mutes within the limits of the State, was at that time, 883; a number greater than that of the same class of persons in 1825, by 238: That more than two years having elapsed since the enumeration took place, it is fair to presume that 900, or even 950 would be too low an estimate, at present, for this portion of our population: That, supposing the smaller of these estimates to represent the truth, and reasoning upon the results of long observation, as given by writers on population, one-thirtieth of this number must annually become fit subjects of instruction; and as such, should be provided for: That five years being allowed to the deaf and dumb for this purpose, one-sixth of the whole number, or 150, should be constantly in a course of education: That this conclusion, the result of reasoning upon general principles, may be amply verified by an appeal to existing facts, so far as authentic documents place them within our reach.

Perhaps the ages between 12 and 17 are those at which instruction is most beneficial. Within these limits is embraced a period of five years, the time allotted as above mentioned, to the education of the deaf and dumb. The number, therefore, actually exist-

ing between these extremes, is the number for which provision should be made. For as one generation of these passes away, another rises to supply its place: more numerous, too, than that which preceded it, since this portion of the community increases with the general increase of population in the State.

The census of 1830, shows a total of persons deaf and dumb below the age of 14 years, amounting to 293. One sixth of these, nearly, may be presumed to have completed their 12th year; which proportion may be stated at 50. The total from 14 to 25, is 323. We cannot presume a third of these to have been below 17, at the time the census was taken; yet the number was probably very little less, and may safely be put at about 100. This estimate is made, it is true, without sufficient data to insure its perfect accuracy; but it may be depended on so far as to prove that the number of deaf mutes immediately in need of instruction, is at least 150. For it must be borne in mind, that no account is here taken of these (of whom there are not a few) who have passed their 17th year without education, nor of the constant increase of this portion of our population.

Whatever may be the cause, it is unquestionably true, that the great majority of the deaf and dumb have need of aid from the public munificence to enable them to avail themselves of the blessings of education. During a term of 16 years at the American Asylum in Hartford, out of 355 pupils from the States of Connecticut, Massachusetts, Vermont, New-Hampshire and Maine, only 64 have been supported by their friends; a number bearing to the whole a ratio but little greater than that of 1 to 6. It must be remembered that this period embraces the early years of that asylum, when there were collected at once within its walls, a number which had been accumulating for years. Those parents whose means enabled them to defray the expenses of their children's education, availed themselves without delay, of the facilities afforded by the new institution. Others, in less favorable circumstances, were compelled to wait for legislative aid. The consequence has been, that the ratio of pay-pupils to the whole number, (confining ourselves always within the States which patronize the Asylum) is at present, nearly that of 1 to 18. In the New-York Institution, this ratio is less than that of 1 to 12. It is indeed very possible, that some parents may be sufficiently selfish to deny to their children those advantages which they have it in their power to con-

fer upon them. Your memorialists believe that ample allowance is made for this possibility, when they assume that not 1 in 6 of the deaf mutes in this State, is in circumstances to render it possible for him, without aid from public or private charity, to avail himself of the abundant facilities now afforded for his education.

The intention of the Legislature in enacting the laws which already exist, in reference to this subject, was undoubtedly to make provision equal to the wants of all the deaf and dumb who might reasonably expect their assistance. That generous and philanthropic spirit which prompted the erection of seminaries and the appropriation of moneys to the humane purpose of giving light to those that sit in darkness, could never have contemplated a partial accomplishment of an object which recommends itself so immediately to the best sympathies of our nature. Justice, humanity, religion, every argument which can plead in behalf of a single mute, extends itself equally to the whole unfortuniate class of which he is an individual. Yet, while at least one hundred and twenty-five, and undoubtedly a greater number, of rational and immortal beings are growing up among us in a state of ignorance and wretchedness, from which they possess no means of deliverance; for only eighty of these does there exist any certain provision in the laws of this State. The humanity of individuals, associations or supervisors of counties, has provided for a few others; but many still remain destitute; and, as a necessary consequence, ignorant; and so they must remain until the Legislature shall extend to them relief. Thus has the benevolent design of this honorable body failed of its complete accomplishment; and thus have your memorialists felt themselves constrained once more, formally to exhibit the claims of this unhappy portion of our fellow beings upon the public munificence.

It is not a great thing which these children of sorrow ask at the hands of those who are so abundantly able to bestow. It is only that the same generosity, the same justice may extend itself to them, which has already restored so many of their companions in misfortune to society and enjoyment. Their numbers are comparatively few. They cannot, if they would, be burthensome to their benefactors: but even were it otherwise, the claim which has been acknowledged in behalf of a portion, in like circumstances, entitles them to expect that they too shall be provided for. Would it not be a noble act, one worthy the Legislature of an enlightened

and generous people, to adopt the noble language of the sovereign of Denmark, and proclaim, that "every deaf and dumb infant, born in this state, shall receive the education necessary to render him a useful member of society!" Such an act would effectually secure the desired object; and would be attended with an amount of expense too trivial to deserve notice, in comparison with the immeasurable benefits which it would confer upon those who are perishing for lack of knowledge.

The consideration of expense, however, is not that which your memorialists believe is to decide the question in the minds of this honorable body: The motives by which the Legislature will be influenced, are of a character more elevated; they are motives more binding upon the conscience and more honorable to the heart. The duty of educating the deaf and dumb has been felt and acknowledged. The provision made in conformity with the admitted obligation, has been found inadequate to its designs; and the appeal comes back to the conscience with all the force of the original obligation, to make the provision more extensive, and to insure the accomplishment of the benevolent object intended. But if the voice of conscience were silent, and the obligation entirely unfelt, still humanity would plead with untiring importunity, in behalf of these, our unhappy fellow beings; and would assuredly obtain from the pity of the Legislature, that which she could not demand of their justice. Deliver, she would say, these imprisoned minds from the thralldom of ignorance. Deliver these souls formed for rational social enjoyment, from solitary wretchedness. Save these immortals, fashioned in the image of the Almighty, from being the slaves of sense, becoming the victims of vicious propensities, and prostrating our exalted nature, to a level with brutish degradation. Save them from agonizing the hearts of friends and proving a perpetual incumbrance upon their hands. Tell them, above all, of that world, where their sorrows may have an end; where the ears of the deaf shall be unstopped, and the lips of the dumb shall join the universal hymn of praise to the Maker of heaven and earth. Do this as you would wish it to be done, had the finger of God been placed upon your own lips. Do this, and remember that your own reward shall not fail; for the voice of him, who spake as never man spake, has said, "Blessed are the merciful, for they shall obtain mercy."

Your memorialists, therefore, pray that the existing provision for the education of the deaf and dumb may be so extended, as fully to meet the wants of that description of persons, within the limits of the State. And as in duty bound, your memorialists will ever pray.

JAMES MILNOR,

*President of the Institution.*

H. P. PEET,

*Secretary.*



**No. 62.**

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**IN SENATE,**

**March 2, 1833.**

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**REPORT**

**Of the majority of the Committee on the petition of the President and Directors of the Central Asylum, for the Instruction of the Deaf and Dumb at Canjoharie.**

The majority of the committee to whom was referred the petition of the President and Directors of the Central Asylum for the Instruction of the Deaf and Dumb at Canajoharie,

**REPORT:**

That the petitioners ask of the Legislature to provide by law, for the support of one or more additional indigent deaf and dumb persons, from each Senatorial District, at their institution; and for such farther pecuniary aid, as will enable them to erect suitable workshops for the instruction of their pupils in the mechanic arts.

It will be seen by a reference to the documents of the Senate, No. 235, of the year 1836, that an application similar to the present, was then addressed to the Legislature, by the same institution. It was then referred to the Secretary of State, who made an elaborate report to the Senate.

The committee having looked into that report and concurring entirely in the views and conclusions of the Secretary, deem the reasoning of the report so ample and satisfactory, that they have not felt themselves justified in attempting a new argument upon the subject. The committee therefore, ask leave to refer the Senate to that report, and in accordance with the views contained in it, to submit the following resolutions:

[Senate No. 62.]



***Resolved,*** That it is not expedient to attempt to support two separate institutions for the instruction of the deaf and dumb, in this State.

***Resolved,*** That the Legislature ought not to make any appropriation for the erection of permanent buildings, shops or other fixtures, for the Central Asylum of the deaf and dumb at Canajoharie.

***Resolved,*** That the petitioners have leave to withdraw their petition.

J. BIRDSALL, *Chn.*

**IN SENATE,**

**March 1, 1833.**

**ANNUAL REPORT**

**Of the Trustees of the Bank for Savings, for the  
year 1832.**

Pursuant to the provisions of an act, entitled "An act to incorporate an association by the name of the Bank for Savings, in the city of New-York," the trustees now beg leave to present their fourteenth

REPORT, AS FOLLOWS:

**First.**—That the trustees have received from thirteen thousand six hundred and thirty-eight depositors, from the first of January to the thirty-first of December, 1832, the sum of seven hundred and eighty thousand, six hundred and thirty-two dollars and seventy-eight cents, in the following manner:

In the month of January,	from 1,230 depositors,	\$57,184 51
“ February,	“ 1,008 “	48,474 00
“ March,	“ 1,363 “	65,898 96
“ April,	“ 940 “	51,665 56
“ May,	“ 1,140 “	65,937 93
“ June,	“ 1,948 “	118,718 43
“ July,	“ 648 “	37,776 46
“ August,	“ 534 “	32,638 98
“ September,	“ 925 “	55,450 47
“ October,	“ 981 “	61,948 00
“ November,	“ 1,040 “	68,116 36
“ December,	“ 1,881 “	116,898 14
	<u>13,638</u>	<u>\$780,632 78</u>

of which number 3,169 are new accounts opened with the bank,  
and 10,469 are re-deposits.

13,638

*Second.*—That the sum of eight hundred and sixty-one thousand, one hundred and twenty dollars and ninety-two cents has been drawn out by eleven thousand six hundred and forty-four depositors. Of this number 2,240 have closed their accounts.

In the month of January,	paid	1,004 drafts, ..	\$96,538 13
“ February,	“	993 “ ..	73,400 93
“ March,	“	1,056 “ ..	84,926 35
“ April,	“	1,119 “ ..	103,717 03
“ May,	“	876 “ ..	53,781 79
“ June,	“	774 “ ..	43,556 16
“ July,	“	1,521 “ ..	115,658 98
“ August,	“	878 “ ..	55,940 93
“ September,	“	971 “ ..	74,429 25
“ October,	“	932 “ ..	72,889 89
“ November,	“	807 “ ..	54,218 89
“ December,	“	713 “ ..	32,062 59
		<u>11,644</u>	<u>\$861,120 92</u>

*Third.*—The deposits have been classed under the following heads of professions and occupations:

Accountants, .....	9	Button-makers, .....	2
Attornies, .....	4	Boot-maker, .....	1
Auctioneer, .....	1	Boot-cleaner, .....	1
Artists, .....	2	Broker, .....	1
Blacksmiths, .....	52	Boatmen, .....	3
Bar-keeper, .....	1	Brewer, .....	1
Barbers, .....	7	Blacking-maker, .....	1
Booksellers, .....	2	Bellows-maker, .....	1
Boarding-house keepers, ..	37	Curriers, .....	8
Butchers, .....	5	Cooks, .....	44
Bookbinders, .....	4	Clerks, .....	87
Bakers, .....	56	Chamber-maids, .....	24
Brass-founders, .....	6	Cartmen, .....	37
Basket maker, .....	1	Carpenters, .....	114
Book-folder, .....	1	Chair-makers, .....	8
Brush-makers, .....	2	Coachmen, .....	7
Bleacher, .....	1	Carvers, .....	7

Coopers, .....	16	Musical instrument makers, .....	2
Cabinet-makers, .....	28	Marshal, .....	1
Confectioners, .....	7	Machinists, .....	9
Comb-maker, .....	1	Millwrights, .....	9
Comedians, .....	3	Marble-polishers, .....	6
Collectors, .....	2	Moulder, .....	1
Coppersmiths, .....	2	Millers, .....	2
Custom-house officer, .....	1	Morrocco-dresser, .....	1
Coach-makers, .....	2	Nurses, .....	37
Cotton-winder, .....	1	Newsman, .....	1
Cutler, .....	1	Oystermen, .....	8
Chemist, .....	1	Ostlers, .....	10
Caulkers, .....	5	Oil dealer, .....	1
Domestics, .....	440	Paviors, .....	2
Distillers, .....	4	Printers, .....	33
Druggists, .....	2	Pedlers, .....	23
Dyers, .....	3	Physicians, .....	15
Die sinker, .....	1	Porters, .....	31
Engineers, .....	6	Painters, .....	19
Engravers, .....	2	Preachers of Gospel, .....	13
Equestrian, .....	1	Pilots, .....	3
Engine-maker, .....	1	Perfumer, .....	1
Founders, .....	4	Paper-maker, .....	1
Farmers, .....	66	Portrait-painter, .....	1
Fishermen, .....	4	Pump-makers, .....	2
Furrier, .....	1	Piano forte makers, .....	2
Fruiterers, .....	9	Plane-maker, .....	1
Grocers, .....	47	Pattern-maker, .....	1
Gardeners, .....	15	Pencil case maker, .....	1
Grate-makers, .....	3	Rope-makers, .....	3
Gas workmen, .....	2	Riggers, .....	5
Gaoler, .....	1	Seamstresses, .....	152
Glass-cutters, .....	7	Ship-master, .....	1
Gilders, .....	4	Sailors, .....	32
Hatters, .....	9	Soldiers, .....	20
Hat-trimmers, .....	2	Shipwrights, .....	19
Hucksters, .....	3	Shop-keepers, .....	17
Ink dealer, .....	1	Stone-cutters, .....	27
Inspector of wood, .....	1	Saddlers, .....	5
Jewellers, .....	10	Shoe-makers, .....	69
Laborers, .....	347	Sail-makers, .....	6
Locksmiths, .....	3	Sugar-bakers, .....	10
Lamp-lighter, .....	1	Shoe-binders, .....	2
Leather-dressers, .....	7	Sawyers, .....	8
Letter carrier, .....	1	Students, .....	4
Milliners, .....	10	Stevadore, .....	1
Mantua-makers, .....	10	Slaters, .....	1
Masons, .....	51	Segar-makers, .....	2
Merchants, .....	41	Sausage-maker, .....	1
Musicians, .....	5	Silversmiths, .....	15
Milkmen, .....	5	Stock-maker, .....	1

Surveyor, . . . . .	1	Ventriloquist, . . . . .	1
Teachers, (female) . . . . .	23	Victuallers, . . . . .	4
Teachers, (male) . . . . .	17	Waiters, . . . . .	36
Tailors, . . . . .	105	Weavers, . . . . .	19
Tailoresses, . . . . .	64	Washerwomen, . . . . .	25
Tobacconists, . . . . .	5	Watchmakers, . . . . .	3
Type-founders, . . . . .	3	Wheelwrights, . . . . .	4
Turners, . . . . .	9	Whitewasher, . . . . .	1
Tavern-keepers, . . . . .	14	Whitesmiths, . . . . .	2
Trunk-makers, . . . . .	2	Waterman, . . . . .	1
Tanners, . . . . .	2	Not described, being mi-	
Tinners, . . . . .	19	nors, &c. . . . .	425
Tallow chandlers, . . . . .	2		
Upholsterers, . . . . .	3		3,169
Umbrella-makers, . . . . .	2		

## DESCRIPTION OF PERSONS.

Minors, (female) . . . . .	77	Trustees, deposits in trust	
Minors, (male) . . . . .	92	for children, orphans, ap-	
Orphans, . . . . .	13	prentices, &c. &c. . . . .	297
Apprentices, . . . . .	7	Colored persons, . . . . .	150
Widows, . . . . .	345		
Single women, . . . . .	650		1,631

*Fourth.*—The deposits have been made in the following sums:

From	1 to	5 dollars, . . . . .	1,181
"	5 to	10 " . . . . .	1,736
"	10 to	20 " . . . . .	2,582
"	20 to	30 " . . . . .	1,755
"	30 to	40 " . . . . .	1,019
"	40 to	50 " . . . . .	1,395
"	50 to	60 " . . . . .	602
"	60 to	70 " . . . . .	356
"	70 to	80 " . . . . .	324
"	80 to	90 " . . . . .	181
"	90 to	100 " . . . . .	856
"	100 to	200 " . . . . .	1,064
"	200 to	300 " . . . . .	314
"	300 to	400 " . . . . .	142
"	400 to	500 " . . . . .	81
"	500 to	600 " . . . . .	81
"	600 to	700 " . . . . .	12
"	700 to	800 " . . . . .	10
"	800 to	900 " . . . . .	2
"	900 to	1,000 " . . . . .	9
"	1,000 to	2,000 " . . . . .	6

---

13,638

## Dr. Jothout, Treasurer.

Cr.

1832.	this day, .....		\$160,031 87
January,	interest on corpora-		
"	nds, .....	\$3,750 00	
February,	ositors, .....		57,183 33
"	on stock, .....	6,727 50	
March,	ositors, .....		48,451 58
"	.....		65,922 85
April,	on stock and bonds, .	22,034 25	
"	ositors, .....		51,665 89
May,	on stock, .....	2,145 00	
"	ositors, .....		65,948 08
June,	.....		118,716 38
"	on stock and public		
July,	bonds, .....	33,840 80	
"	on account with Me-		
August,	s' bank, .....	2,016 19	
"	ncipal of the public		
September,	bond, .....		10,000 00
"	ositors, .....		37,774 48
October,	.....		32,642 06
November,	on stock, .....	6,562 50	
"	" and bonds, ..	3,915 00	
December,	ositors, .....		55,446 90
"	on stock and bonds, ..	22,034 25	
	ositors, .....		61,933 06
	on stock, .....	2,145 00	
	ositors, .....		68,115 92
	.....		116,812 36
1833.			
January,	on stock and bonds, ..	37,340 80	
	account with Me-		
	s' bank, .....	2,846 26	
		<u>\$145,957 55</u>	
	terest received, .....		145,957 55
			<u>\$1,097,202 31</u>
	ht down, .....		\$230,079 46
	ed.		

J. OOTHOUT,  
Treasurer.



The trust institution, from the commencement of it

REPAID.			
From July, 20, to	369 drafts,		\$39,622 84
" 21, "	1,274 "		113,659 69
" 22, "	1,802 "		158,761 00
" 23, "	2,925 "		230,311 97
" 24, "	3,314 "		258,494 01
" 25, "	4,514 "		443,033 52
" 26, "	3,002 "		305,900 66
From Jan. 27, "	6,476 "		513,247 53
" 28, "	7,246 "		530,051 78
" 29, "	9,085 "		628,267 15
" 30, "	9,376 "		573,953 05
" 31, "	9,278 "		553,747 37
" 32, "	9,605 "		625,558 91
" 33, "	11,644 "		861,120 92
	79,910		\$5,835,730 40
Deduct			
Add in			
Total			

t of:

\$2,448,759 18
50,000 00
22,292 78
230,079 46
\$2,751,131 42
, President.





**IN SENATE,**

**March 4, 1833.**

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**REPORT**

**Of the select committee, on the petition of Henry Arcularius, Commissary-General.**

Mr. Sherman, from the select committee, consisting of the delegates attending the Senate from the first Senate district, to whom was referred the petition of Henry Arcularius, Commissary-General,

**REPORTED:**

That the petitioner represents that the basement or kitchen story of the dwelling-house, attached to the arsenal department in the city of New-York, belonging to the State, is subject to being inundated, and frequently overflowed by the rising of water from the ground on which it is situated. It stands upon made ground, by the filling up of the pond of water known by the name of the *Collect*; and the water that rises in this manner, is of an impure and unwholesome nature, producing a damp and unhealthy atmosphere not only prejudicial to health, but injurious to the building. In consequence of this, the kitchen has become almost untenable, and much out of repair; and it is proposed as the best mode of remedying the difficulty, to fill in the cellar kitchen about four feet with pure and wholesome earth, and build a small kitchen on the level ground in rear of the dwelling-house, where there is ample room for that purpose.

The expense of making these improvements as estimated by Mr. Tucker, known to be a skilful and worthy master-builder, will not exceed nine hundred dollars. The petitioner sets forth the facts of the case, and they are vouched for by respectable physicians and others, whose statements accompany the petition.

Under these circumstances the committee are of opinion that it would be advisable on the part of the State, to make the appropriation for the above purpose; and accordingly ask leave to introduce a bill.

**IN SENATE,**

**March 4, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of Gilbert D. Dillon.**

Mr. Sherman, from the committee on claims, to whom was referred the petition of Gilbert D. Dillon, praying for compensation for bodily injuries received while discharging a military duty at the request of the State,

**REPORTED:**

The claim of the petitioner for compensation, presents a case founded on the following circumstances:

In the year 1828, upon the death of the then Chief Magistrate and commander in chief of this State, De Witt Clinton, the Legislature then being in session, passed a joint resolution directing that suitable honors should be paid to his memory; and a joint committee was appointed to prescribe the mode and manner of the same.

In pursuance of these proceedings, general orders were issued by the Adjutant-General, a copy whereof accompany this report, directing the commander of each company of artillery throughout the State having charge of a piece of ordnance, to fire half hour guns from 12 o'clock to sundown of the day when such orders should come to hand.

The petitioner being a first lieutenant of a company of artillery in Kingston, in the county of Ulster, in obedience to said order, on the 15th of January, 1828, took charge of the piece of ordnance belonging to said company and commenced firing; in the course

of which duty, the piece was accidentally discharged, and a part of the contents lodged in the body of the petitioner. The wound was serious, and his life for sometime despaired of. That after a long protracted illness, which was attended with much suffering and expense, it resulted in leaving him an invalid, with the loss, in a great measure, of the use of his right arm and hand.

The committee are aware that personal injuries occurring in the discharge of ordinary militia duty are not considered as constituting a proper claim for legislative relief; and accordingly they have been, by general practice, excluded from a favorable consideration by a wise policy of State conduct; a policy, however, founded, not so much on a sense of equal and retributive justice between the body politic and an individual, as upon the necessity of guarding the government from an extensive source of applications which might embarrass the operations of the treasury. Upon this principle the committee were at first inclined to dispose of the case of the petitioner; but, upon further reflection and examination, there appeared to be reasons and circumstances that, in their opinion, would justify them in presenting it as an exception to the general rule; circumstances that appear to warrant the course of taking it out of the policy which governs ordinary cases.

The occasion which produced the injury was one of an extraordinary character, and not likely often to occur; and in this respect, the reason of the policy which controls other cases, does not apply. A similar case or a similar occasion, might never, or seldom, occur again, and the precedent would not be attended with the danger of a frequent recurrence as authority.

The duty performed in this case was at the special instance of the Legislature, and the petitioner was called out on a sudden emergency, and without much notice or previous preparation.

he duty was a voluntary compliance with the request of the State, and not rendered as a tax or duty imposed upon the petitioner by the militia law under which he held his commission.

These are some of the reasons which have influenced the committee to distinguish the case from those which happen on days of public parade.

The case presents itself to the sympathy and charitable consideration of the Legislature, and in that point of view the committee commend it to their favorable consideration; and ask leave to introduce a bill.



**No. 66.**

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**IN SENATE,**

**February 18, 1833.**

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**ANNUAL REPORT**

**Of Andrew Comstock, an Inspector of Hides and  
Skins for the city of Albany.**

Andrew Comstock, inspector of hides and skins for the city of Albany, makes the following report: That from the 1st of May, 1831, to the 1st of December, in the same year, he has inspected 4,265 hides, which at \$30 per thousand, amounts to.... \$127 97

That during the aforesaid period, he has also inspected

258 skins, which at \$10 per thousand, amounts to.... 2 58

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**\$130 55**

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All which is respectfully submitted.

**ANDREW COMSTOCK,**

*Inspector.*

*Dated Albany, February 1st, 1833.*

[Senate, No. 66.]

I





**No. 67.**

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**IN SENATE,**

**February 19, 1833.**

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**ANNUAL REPORT**

**Of Aaron Parsons, an Inspector of Sole Leather for  
the county of Cayuga.**

**TO THE PRESIDENT OF THE SENATE:**

As one of the inspectors of sole leather for the county of Cayuga, permit me, sir, through you, to present my annual report to the Legislature of the State of New-York, as I am by law required.

Since my appointment in March last, up to the first day of January, 1833, I have inspected, weighed and sealed 1,004 sides, all of which I considered of the quality good, except 185 sides which I stamped damaged. Fees,..... \$40 16  
Expenses,..... 29 63

Nett proceeds,..... \$10 53

I discover from the law, that it is my duty to communicate to the Legislature any information I may possess, calculated to improve the articles in quality or quantity. I have nothing to communicate, except that I coincide fully in the views and suggestions of David B. Wheeler, the other inspector for the county, as expressed by him in his annual report, and I wish to be considered as joining with him in respectfully asking the attention of the Legislature to the defects in the present law, which he has suggested in his report.

All which is respectfully submitted.

**AARON PARSONS.**

*Sempronius, Cayuga Co. Feb. 1, 1833.*



**IN SENATE,**

**March 4, 1833.**

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**ANNUAL REPORT**

**Of Henry R. Halsey, Inspector of Beef and Pork in  
the county of Seneca.**

*To the Honorable the Legislature of the State of New-York.*

I, Henry R. Halsey, inspector of beef and pork, residing in the county of Seneca, do hereby certify and report, that during the year ending on the first day of January last, I have inspected four hundred forty-one barrels of pork of the different qualities hereinafter mentioned, to wit:

Of mess pork, .....	125 barrels.
Of prime pork, .....	302   “
Of thin mess pork, .....	14   “

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Total,..... 441 barrels.

Fees for the inspection of the same, ..... \$66.15.

Respectfully submitted.

**HENRY R. HALSEY.**

**Lodi, Jan. 28, 1833.**



**IN SENATE,**

**March 4, 1833.**

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**REPORT**

**Of the committee on roads and bridges, upon the petition of the Albany and Schenectady Turnpike Company.**

Mr. Westcott, from the committee on roads and bridges, to which was referred the petition of the president, directors and company of the Albany and Schenectady Turnpike Company,

**REPORTED:**

That the petitioners ask for an addition of fifty thousand dollars to their present capital, and for such increase of their rates of toll as the Legislature may think the company are justly entitled to under all the circumstances connected with this case.

The act of incorporation bears date the 30th day of March 1802, and authorises the company to construct a turnpike road, not less than four rods wide, to extend from the east range of Snipe-street in the city of Albany, to the sixteenth mile stone (then) standing near the house of Henry R. Teller, in Schenectady; two rods in breadth of the road to be bedded with stone or other hard substance, and covered with gravel so as to make a smooth and solid surface. The turnpike was completed in the fall of the year 1805, not, however bedded with stone or other hard substance, but faced with gravel, at an expense of one hundred and eighteen thousand six hundred dollars, or nearly eight thousand dollars a mile. From 1805 to the present time, so much of the income has been necessarily expended in repairing the road, that the dividends on the stock have been below an average of three per cent a year. For more than ten years, repairs were made with gravel, until it was demonstrated that, from the unfavorable nature of the ground, the surface could not by that method be made capable of sustaining the

pressure of heavy loaded carriages. Broken stone and pavements were then resorted to, but without satisfactory results. More recently, and during the last fall, as the petitioners state, "they have made an experiment by laying stone rails and pavements of a width sufficient for two carriages to pass each other, and so constructed, that the stone rails shall be the track for the wheels of carriages." From the experience had upon this method of improving the road, the company are induced to believe that it may be made effectual, and the road become permanent, and at all times satisfactory to the public. But as this improvement will require an expenditure greatly beyond any available means which the company now have, they ask the Legislature to pass a law to enable them to add fifty thousand dollars to their present capital: and the committee are of opinion that this request is reasonable, and ought not to be denied.

There are several considerations which bear favorably upon that branch of the petition, in which the company pray for an increase of their present rates of toll. If fifty thousand dollars be added to the present capital, and expended in permanent improvements, it will shew an expense of more than eleven thousand dollars for each mile. Perhaps no turnpike in the State has been made at an equal cost, and many at less than one tenth. While the travelling track of other turnpikes has been permitted at from fifteen to eighteen feet in width, this company is required to bed with stone or other hard substance, and face with gravel, thirty-three feet, with tolls decidedly less than are authorized by many of the more favored charters. When the company commenced their road, it was probably not anticipated that any rival institution would be authorized by law, but this expectation has, in some measure, been disappointed by the construction of a rail-road from and to the same points, and in a parallel direction; by which the interests of the turnpike company have been injuriously affected; and from the popularity and usefulness of the rail-road, the prospects and hopes of the turnpike company have been materially changed. Although the rail-road affords the most desirable accommodations for travellers, and shares largely in the profits drawn from passengers, yet it by no means furnishes an avenue adapted to the ordinary business of the community. The necessities for a good road still exist in all their former force, while the inducements to improve and maintain such road are essentially diminished; and that, too, by an act of the Legislature, which by many has been considered, at least doubtful in principle; and supposed by the turnpike company, to be oppressive in its operation upon their just rights.

The committee has compared the rates of tolls granted by the charter of the petitioners, with those contained in similar acts both of earlier and later dates. The tolls receivable by this company are less than those contained in many other turnpike laws; while exemptions from the payment of *any* toll are reserved in this act, not common in other turnpike charters. Among the exemptions, are all carriages loaded with hay, firewood, fossil coal or turf, with the animals drawing the same; and no toll gate is permitted within three miles of Lodge-street, in Albany, or within three miles of the western termination of the road.

When we consider the great and growing importance of this road, the expensive character of its construction and support, the closely restricted nature of its charter, and the unforeseen competition it must now encounter, it would seem but just that every encouragement should be extended by the Legislature, consistent with a due regard to the rights and interests of the community.

Under these views of the case, the committee has prepared a bill providing for an increase of capital and an advance of about twenty-five per cent on the present rates of toll, and ask leave to introduce it.







**No. 70.**

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**IN SENATE,**

**February 28, 1833.**

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**ANNUAL REPORT**

**Of the Regents of the University.**

To the Hon. JOHN TRACY,

*President of the Senate.*

SIR,

I have the honor to transmit herewith the Annual Report of the Regents of the University to the Legislature.

I am, sir, respectfully,

Your obedient serv't,

**SIMEON DE WITT,**

*Chancellor of the Regents of the University.*

[Senate, No. 70.]

I



**ANNUAL REPORT**

**OF THE**

**REGENTS OF THE UNIVERSITY**

**OF THE**

**STATE OF NEW-YORK.**

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**MADE TO THE LEGISLATURE, FEBRUARY 28, 1833.**

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**ALBANY:**

**PRINTED BY CROSWELL, VAN BENTHUYSEN AND BURT.**

.....  
**1833.**



# REPORT, &c.

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*To the Honorable the Legislature of the State of New-York.*

## THE REGENTS OF THE UNIVERSITY RESPECTFULLY REPORT,

That reports have been received by them the present year, from Columbia, Union and Hamilton colleges, from the college of physicians and surgeons in the city of New-York, and from the college of physicians and surgeons of the Western District. No report has been received this year from Geneva college.

It appears by the report of Columbia college, that the whole number of students, at the close of the last term, was one hundred and twenty-seven, and the number of students in the grammar school attached to the college is two hundred and twenty, of whom one hundred and six belong to the classical department. The president of this institution is preparing a course of lectures on the constitutional jurisprudence of the United States, which he intends to deliver to the senior class.

The report from Union college states that seventy young gentlemen were admitted to the degree of bachelor of arts at the last annual commencement, and that the whole number of students for the current year has been two hundred and twenty-seven. Fifty-two young men have been assisted, during the last year, from the fund granted by the State for that purpose. The trustees state, that during the past year the students of the institution have generally prosecuted their studies in a satisfactory manner, and have been exemplary in their conduct.

By the report of Hamilton college, it appears that the Rev. Henry Davis has resigned the office of president of the college, and the trustees have elected the Rev. Ichabod S. Spencer his successor, and hopes are entertained that he will accept the office. The number of students belonging to the college at the date of the report was eighty-nine. The trustees state, that since their last

report the Hon. William H. Maynard has died, and left by his will a legacy of twenty thousand dollars, with a portion of the residue of his estate of uncertain amount, to the trustees, as a perpetual fund for the endowment of a professorship of law in said college. They have instituted a professorship, and will appoint a professor, and carry into effect the munificent intentions of the testator as soon as they shall come into possession of the funds designated for that purpose. The trustees continue their efforts, with prospects of success, to raise by subscription forty thousand dollars for the support of the faculty. The prospects of this institution have been gradually improving since the year 1829, and are now such as to induce the belief that it will be permanently useful.

Since the last annual report of the Regents, Joseph White, M. D. president of the college of physicians and surgeons of the Western District of the State, has departed this life, and the Regents, in pursuance of the recommendation of the trustees, have appointed Westel Willoughby, late vice-president, his successor, and upon the like recommendation, have appointed Luther Guiteau, M. D. the next senior trustee, vice-president, and Nathaniel S. Benton and John R. Brown, trustees, to fill the vacancies occasioned by the death of Joseph White and Alexander Coventry. The trustees report, that the number of students attending the lectures delivered at this institution during the term ending in January last, was one hundred and ninety, of whom thirty-eight were recommended by the trustees for the degree of doctor of medicine, and it has been conferred by the Regents. Additions have been made to the college buildings to accommodate the increasing number of students.

The report of the college of physicians and surgeons in the city of New-York, shows the institution to be in a flourishing condition. The number of students attending the lectures is one hundred and eighty-nine, being seven more than at the last session. The receipts of the college, since the last annual report, amount to \$3,184.05, and the expenditures to \$2,651.54, including \$1,000 appropriated to the payment of a part of the college debt.

A communication has recently been received by the Regents from the Chancellor of the university of the city of New-York, by which it appears that this institution was opened for the reception of students in October last, and professors and lecturers have been

appointed. The number of students at present is one hundred and fifty-seven. A site for the institution has been purchased, and the erection of the buildings is to be commenced early in the spring. The council are now engaged in obtaining additional means for carrying the enlarged objects of the institution into complete effect.

Reports have been received during the year from sixty-five academies, and the sum of ten thousand dollars has been distributed to them, as directed by law. A statement of the distribution made is hereto annexed. Abstracts from the reports are herewith transmitted, showing the whole number of students to be four thousand eight hundred and fifty-six. The whole number of students reported to the Regents last year was four thousand one hundred and eighty-eight. The increase in the number of students this year is, therefore, six hundred and sixty-eight. The abstracts also contain the requisite information to enable the Legislature to ascertain the condition of the academies in regard to funds and the studies pursued in the several institutions. The Regents, in their last annual report, remarked, that they were "decidedly of opinion that the academies were the proper instruments for accomplishing the great object of supplying the common schools with teachers," and commended the course pursued by some academies, in making the principles of teaching a distinct branch of instruction. The Regents are gratified to learn, from the reports of this year, that the St. Lawrence, Canandaigua, Oxford and Lowville academies have pursued the course of giving instruction with the special view of qualifying the students to become teachers. The report of Canandaigua academy states that fifty teachers have been furnished by that institution during the last two years; and Lowville academy, as stated by the trustees, has furnished twenty teachers the last year.

The increasing prosperity of the colleges and academies, as exhibited in the reports to the Regents, affords the highest gratification to the friends of science, literature and virtue, and gives assurance that these institutions will make ample remuneration for the munificence of the Legislature heretofore extended to them, by imparting rich and enduring blessings to the people of this State.

An abstract from the meteorological returns of academies is herewith transmitted. Accompanying the meteorological report from the Albany academy is an interesting communication from the prin-



cipal of that institution, on the mean temperature of Albany, deduced from the observations of seventeen years.

Respectfully submitted,

By order of the Regents,

SIMEON DE WITT.

Attest,

G. HAWLEY, *Secretary.*

*Albany, February 27, 1833.*

niversi

In Composi  
tion

# TRACT

*niversity, by*

In Composition and  
ation

nd Latin and Greek.

187

*Acad*

==

Debts due by Academy.

200

547

None  
100  
None.  
200  
2075  
800  
None.

# ISTRA

## Academies

Debts due by Academy.	Amount received from Re- gents for the previous year, Salary of teachers.
..... 200	..... 227
..... 547	..... 244 money, and \$144.
None.	..... 21
100	..... 21
None.	..... 21
200	..... 21
2075	..... 21
800	..... 21
None.	..... 21



## **CIRCULAR**

### **To Colleges and Academies.**

At a meeting of the Regents of the University of the State of New-York, held pursuant to adjournment, in the Senate chamber, March 20th, 1832,

On motion of Mr. Dix, it was

*Resolved*, That so much of the annual report for the year 1832 of the trustees of Geneva college, as relates to the expediency of adopting a course of experiments upon the variations of the magnetic needle, be referred to a select committee.

The Chancellor and Mr. Dix and Mr. Bleecker were appointed such committee.

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At a meeting of the Regents of the University, held pursuant to adjournment, in the office of the clerk of the Senate, March 28, 1832,

Mr. Bleecker, from the committee to whom was referred so much of the annual report for 1832 of the trustees of Geneva college as relates to the expediency of adopting a course of experiments upon the variation of the magnetic needle,

#### **REPORTED:**

That it is very desirable that observations should be annually made on the variation of the needle, inasmuch as the boundaries of lands are usually described according to the courses indicated by the needle, and there are no rules by which its variation can be ascertained, for any interval of time, according to which such bounds may be retraced where the land-marks have been obliterated. But as the Regents are not invested with the power of enjoining the making of such observations on the colleges and academies placed under their supervision, the committee are of opinion that it ought to be recommended to them to institute courses of such observations and make annual reports thereof to the Regents, and that a committee be appointed to address the trustees of the colleges

and academies in this State on this subject, stating their opinion of the manner in which, for the sake of accuracy and uniformity, the observations ought to be made.

Which having been read and considered, was accepted, and the same committee who made said report were constituted a committee for the purposes therein mentioned.

A true extract from the minutes of the Regents,

GIDEON HAWLEY, *Secretary*.

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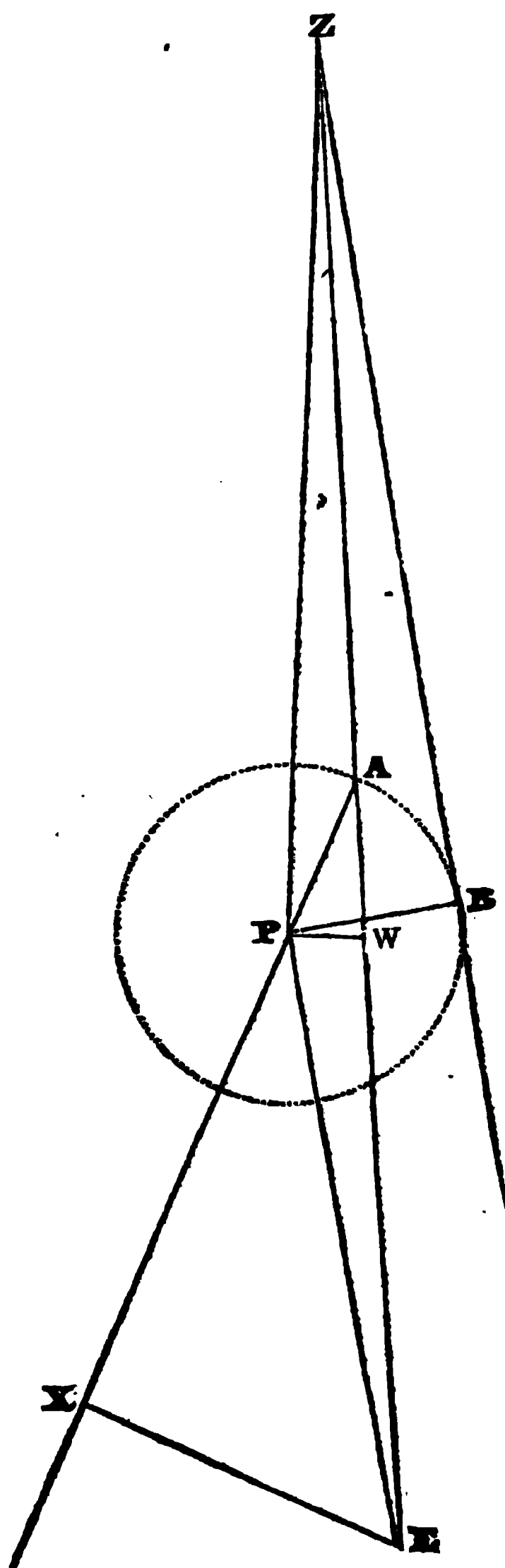
In compliance with these resolutions, the committee to whom the subject thereof has been referred now take the liberty of addressing you, with the view of having the design of the Regents carried into effect. The importance of becoming possessed of a record of the variations of the magnetic needle from year to year, in every part of our country, is too obvious to need any reasoning in its favor. The committee will therefore merely recommend the manner in which the observations, for the sake of accuracy and uniformity, ought to be made for effecting the intended purpose.

An indispensable prerequisite is to have a true meridian established, by fixed and permanent monuments. The manner in which this is to be done, in order that it may be accurately done, requires special directions.

In years past a rule has been prescribed for obtaining an approximate meridian, supposed sufficient for common purposes; that is, to take the direction of the pole star when it is in the same vertical, or perpendicular line with *epsilon ursæ majoris*, called *Alioth*, that is the first star in the tail of the Great Bear, or the one next to the four most conspicuous in that constellation. This rule was once correct, but it is more than a century past: since that the interval between the time when these two stars are in the same vertical, and the time when the pole star is in the meridian, has been gradually increasing, on account of the greater annual increase of the right ascension of the *pole star* than that of *Alioth*. Still some, not aware of this fact, have continued to prescribe the ancient rule. Others have calculated the interval for a certain period of time, without adverting to the changes which would occur in succeeding periods. In order to practice on this rule with accuracy, calculations must be made for the time when it is adopted, and for this







**A.** Ursæ minoris or Pole star.

**Z.** Zenith.

**P.** Pole.

**E.** Epsilon Ursæ minoris, or Alioth.

**PZ.** Co-latitude.

**B.** The place of the Pole star at its greatest azimuth.

purpose the following formula is given as an example, adapted to the beginning of this year and a medium latitude, which will give a result sufficiently accurate for every part of our State, and which may be adopted in practice without producing a sensible error for several years, for the purpose now contemplated.

The time required for the pole star to arrive at the meridian, after it is in the same vertical with Alioth, is thus calculated for the latitude of  $43^{\circ}$  north, on the 1st January, 1833.

	<i>Right Ascensions.</i>			<i>N. polar distances.</i>		
	H.	M.	S.			
$\epsilon$ Ursæ majoris or Alioth, ...	12	46	42	.....	$33^{\circ}$	08' 00''
$\alpha$ Ursæ minoris or Pole star,	1	0	19	.....	1	34 53
<hr/>						
Diff of R. A. $176^{\circ} 35' 45'' =$	11	46	23			

In the annexed figure of the spherical triangles,  $aPe$  and  $aPz$ .

GIVEN the Co. latitude, $ZP$ , .....	47	00	00
The N. P. distance of the Pole star, $Pa$ , .....	1	34	53
The N. P. distance of Alioth, $Pe$ , .....	33	08	00
Diff. of right ascensions, $aPe$ , .....	176	35	45
The supplement of $aPe$ , $ePx$ , .....	3	24	15
REQUIRED the angle $aPz$ —the distance of the Pole star from the meridian at the time of observation.			

PRODUCE  $aP$ , and from  $P$  and  $e$  let fall the perpendiculars  $Pw$  and  $ex$ : Then,

1.  $\text{Cot. } Pe : R :: \text{Cos. } ePx : \text{Tang. } Px$ ; and  $Px + Pa = ax$ .
2.  $\text{Sine } ax : \text{Sine } Px :: \text{Tang. } aPe : \text{Tang. } Pae = Paw$ .
3.  $\text{Cot. } Pa : R :: \text{Cos. } Paw : \text{Tang. } aw$ .
4.  $\text{Cos. } Pa : \text{Cos. } Pz :: \text{Cos. } aw : \text{Cos. } zw$ ; and  $zw - aw = az$ .
5.  $\text{Sine } Pz : \text{Sine } az :: \text{Sine } Paz : \text{Sine } aPz$ ; the angle required.

By this process it is found that the angle  $aPz$  is 3 degrees and 11 minutes, which is equal to 12 minutes and 44 seconds of time; showing that in latitude  $43^{\circ}$  N. on the 1st of January, 1833, the pole star came to the meridian 12 minutes and 44 seconds after it was in the same vertical, or cut the same plumb line with  $\epsilon$  Ursæ majoris or Alioth. The lower the latitude of the place, or the greater the distance between the zenith and the pole, the greater will this interval be. This fact alone shows how vague the rule is, which has been recommended without due qualifications.

The place of Alioth is taken from the *Connaissance de tems* of 1830, and corrected for January, 1833; and the place of the pole star is taken from the Nautical Almanac of this year.

In preference to this method, the following is recommended as that most commonly used by astronomers, and requiring less calculation, in order to establish a true meridian line.

GIVEN, the latitude of the place and the north polar distance of the north star. REQUIRED, the angle  $Pzb$  its greatest azimuth.

The latitude of the place may be taken from the map of the State sufficiently accurate for the purpose, for a small variation in this will not sensibly affect the result.

The north polar distance is given in the annual Nautical Almanac.

From these data find the pole star's greatest azimuth thus:

As the cosine of the latitude of the place is to radius, so is the sine of the north polar distance of the pole star, to the sine of its greatest azimuth, the angle  $Pzb$ .

The latter part of September or the beginning of October is the most convenient time for making the observation, for then the pole star will reach the place required soon after it becomes visible in the evening; and, as a direction about the time, it may be observed, that on the 1st of October next it will be in that position about 50 minutes after sun set, to which may be added about two and a half minutes for every day back, and about as much deducted for every day forward. On the 1st of October the pole star's greatest azimuth will be at about 38 minutes after 6 o'clock in the evening, apparent time, or 28 minutes after 6 o'clock, mean time; that is, the time shown by a well regulated clock, and four minutes earlier on each succeeding day.

The time when the pole star will be at its greatest azimuth, on any given day, is found thus. Subtract the right ascension of the sun from the right ascension of the star. This will give the time when it transits the meridian: from this deduct 5 hours and 54 minutes, which will give the time required, when the azimuth is east; but when it is west, the 5 hours and 54 minutes must be added to the time of the transit. This is a medium for our State, and although

it will vary with the latitude, it will not differ one minute from the truth, between the extremes of our northern and southern bounds.

It is recommended to every college and academy to provide itself, annually, with a Nautical Almanac, in order to enable its students to exercise themselves in lessons of practical astronomy, and, among others, such as those of which this circular gives specimens.

In order to make the observations as correct as possible, a good transit instrument is required, and the observations should be several times repeated. Astronomers never trust to a single observation, for it may be, and often is, affected by the peculiar state of the atmosphere, but make a number in succession, and take the mean of them, rejecting those which differ much from the others.

The instrument should be directed to the star some time before it has made its greatest apparent departure to the east or west, and follow it until it becomes stationary; then bring the telescope of the instrument to a horizontal position and mark the place to which it points, at a considerable distance from it. Let this be as far as the evenness of the ground will admit; then measure the distance between the instrument and the mark so made: the offset from which to the meridian is thus found, by plain trigonometry.

As radius is to the distance between the instrument and the mark so is the tangent of the azimuth, as before calculated, to the offset to be made west, when the azimuth is east, at right angles from the line of observation; then a line drawn from the place of the instrument, through the termination of the offset, will be the true meridian, on which, at a convenient distance from each other, stable and permanent monuments ought to be placed; such as stones sunk deep into the ground, and having on their faces lines drawn to show with precision the course of the meridian.

Where no transit instrument is possessed or can be procured, as the means of an approximation to a true result, a plumb line may be used, and by it the observations conducted in the manner now prescribed. In such case the upper end of the line should have as high a fixture as can be conveniently obtained, and to its lower end should be fastened a heavy weight, immersed in a vessel of water to steady it. A light will be required to illuminate the plumb line to render it visible, and another to keep in the line of observation and to mark the point where it terminates.

The usual means should be employed to ascertain the fact that there is nothing about the place by which the needle may be attracted.

The meridian line being thus accurately and permanently fixed, (and this ought to be considered as an indispensable appendage to every college and academy,) observations should be made on it at least once in every year, in order to ascertain the difference between it and the magnetic meridian. For the sake of uniformity, let them be made in October.

These observations should be made early in the morning, for it is well known that the variation of the needle will be increased, sometimes to the amount of 15 minutes, between sunrise and the middle of the afternoon, and that it will, before the next morning, return to its mean direction.

In regard to the subject now presented to your notice, the Regents claim no mandatory authority, especially over colleges; it therefore comes to you as a recommendation, that you will co-operate with those who preside over other institutions, for carrying into effect a measure deemed important for the promotion of science, and which may be considered of still greater importance in matters touching conflicting claims between individuals of our State. It is therefore hoped that, impressed with a due sense of the general purposes for which the institution over which you preside has been created, this representation, made on behalf of the Regents, may not be disregarded, and that hereafter they may be furnished, by the colleges and academies, in their annual reports, with observations made by them on the direction of the magnetic needle compared with that of the true meridian; and that a detailed account be given by each, of the manner in which its meridian line has been established.

To such institutions as are not provided with good compasses, those made by Mr. Hanks, of Troy, having verniers appended to one end of the needle, are recommended as the best that can now be procured.

S. DE WITT, *Chancellor.*

*Added to the Circular.*

Within the limits of the State of New-York the following method is practicable, and, if carefully conducted, will give a meridian as true, for the present purpose, as can be expected from the other prescribed methods.

*Alioth* and *Gamma Cassiopeiæ* transit the meridian at the same moment, within two seconds of time, the one below and the other above the pole: If then the line be accurately observed in which they appear when in the same vertical, that line will be the true meridian, without an appreciable error; and as the difference between the changes in right ascension of these two stars is only 13 hundredths of a second annually, it will not sensibly affect the accuracy of the rule and its practical results, for many years.

At some distance beyond our north bounds these stars will so nearly approach the zenith as to render the observation inconvenient, with a plumb line, but not with a transit instrument at any place farther to the north. The observation will be practicable either way, as far south as the 35th degree of north latitude, whence *Gamma Cass.* will be seen at its lowest depression, somewhat less than five degrees above the horizon. In latitude 43, *Alioth* will come within 14 degrees of the zenith, and *Gamma Cass.* within 13 degrees of the horizon, at the time when the observation is recommended to be made, which is from the middle of May to the 1st of June. On the 15th May the stars will be on the meridian at about 19 minutes after 9 o'clock in the evening, apparent time, and about four minutes earlier on every succeeding day.

*Gamma* is the middlemost of the bright stars that compose *Cassiopeia's* chair.

Much useful information may be obtained by examining well marked lines of various ages, and comparing their present with their original magnetic bearings.



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**AN ABSTRACT**  
OF THE  
**RETURNS**  
OF  
**METEOROLOGICAL OBSERVATIONS**  
MADE TO THE  
**REGENTS OF THE UNIVERSITY,**  
**FOR THE YEAR 1822,**  
BY  
**Sundry Academies in this State,**  
IN OBEEDIENCE TO INSTRUCTIONS, DATED  
**MARCH 1, 1825.**

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[Senate, No. 70.]

A



# ACADEMIES.

## List of Academies reporting.

Academy	Location	Term	Principal
Albany	Albany	The whole year	T. Remers Back, M. D. Principal.
Auburn	Auburn	The whole year	
Bridgewater	Bridgewater	April 16 to end of year, incom.	
Buffalo	Buffalo	The whole year	M. Stevenson, M. D.
Cambridge, Washington	Washington	The whole year	meser S. Canning.
Canajoharie	Montgomery	The whole year, ex. Aug. and part of April, May & Nov.	
Canandaigua	Ontario	The whole year	
Cayuga	Cayuga	The whole year	
Cherry Valley	Ontario	The whole year	gher, Trustees.
Clinton	Suffolk	The whole year	and G. W. Bradford, M. D
East Hampton	Suffolk	The whole year	. E. Bacon.
Homer	Cortland	The whole year	ill.
Delaware	Delaware	The whole year, ex. Jan. & Feb.	
Dutchess	Dutchess	The whole year	stants.
Poughkeepsie	Kings	The whole year	James W. Fribbie and J. W. Fairfield, Principals.
Franklin	Herkimer	The whole year	W. A. Irvine Principal
Frederick	Steuben	The whole year, incomplete	urray, Jr.
Gouverneur	Chautauque	The whole year	Harbat.
Hamilton	St. Lawrence	The whole year, incomplete	
Hartwick	Madison	The whole year	
Hudson	Ontario	The whole year	
Ithaca	Columbia	The whole year, very incom.	
Johnstown	Tompkins	The whole year	
Kielerhook	Montgomery	The whole year	
Kielerhook	Columbia	The whole year	
Lansingburgh	Ulster	The whole year, incomplete	
Lewisville	Rensselaer	The whole year	
Lewiston	Niagara	The whole year	
Middlebury	Lewis	The whole year	
Montgomery	Genesee	The whole year	
Mount Pleasant	Orange	The whole year	chorn.
Newburgh	Westchester	The whole year, incomplete	A. Wells, Principal.
North-Salem	Orange	The whole year	H. Jelliff, Principal.
North-Salem	Westchester	The whole year	

[SENATE

ACADEMIES, (Continued.)

List of Academies reporting.	Towns.	Counties.	Time for which they report.	Observers.
Onondaga, .....	Onondaga Hollow, ..	Onondaga, .....	The whole year, .....	J. L. Hendrick, Principal.
Oxford, .....	Oxford, .....	Chenango, .....	The whole year, .....	M. G. and S. McKoon, Principals.
Pompey, .....	Pompey, .....	Onondaga, .....	The whole year, .....	A. Huntington, Principal.
Redhook, .....	Redhook, .....	Dutchess, .....	The whole year, .....	L. Thompson, Principal.
Rochester, .....	Rochester, .....	Monroe, .....	The whole year, ncomplete, ..	Not stated.
St. Lawrence, .....	Potsdam, .....	St. Lawrence, .....	The whole year, .....	E. H. Farrar, T. Phelps and J. Caswell, Teachers.
Sem. of G. and O. Conferences, ..	Cazenovia, .....	Madison, .....	The whole year, .....	J. W. Tyler and J. Johnston, Teachers.
Union, .....	Bellville, .....	Jefferson, .....	January to August, inclusive, ..	J. R. Grout, Student.
Union-Hall, .....	Jamaica, ....	Queens, .....	The whole year, .....	P. Potter, Teacher.
Utica, .....	Utica, .....	Oneida, .....	The whole year, .....	D. Prentice, Principal.

JANUARY, 1832.

WEATHER, (NO. OF DAYS.)					Rain inches.	Snow, inches.	Rain & Snow inches.	Rain inches.	Snow, inches.	Rain & Snow inches.	Rain inches.
Clear.	Cloudy.	Rain.	Snow.	Rain & Snow.							
16	15	2	7	1	4.21						
19	11	2	8	1	1.99						
15	15	1	6	1	1.74						
10	20	1	6	1	4.17						
15	16	1	4	1	...						
11	20	2	3	...	2.32						
19	21	1	4	...	1.61						
11	19	1	4	...	4.18						
20	11	2	5	...	3.15						
18	13	2	6	...	...						
13	10	2	3	...	4.69						
22	9	2	10	...	5.65						
10	21	1	4	...	2.90						
13	18	1	5	...	2.03						
17	14	1	5	...	1.32						
9	21	1	4	...	3.09						
10	20	1	6	...	4.41						
18	12	2	2	...	4.10						
8	22	1	7	...	4.60						
14	17	1	4	...	4.22						
21	10	3	3	...	5.26						
13	17	1	5	...	4.02						
19	11	3	2	...	4.08						
8	22	1	4	...	2.06						
15	16	1	1	...	1.51						
10	14	2	2	...	3.64						
16	14	2	2	...	4.81						
14	17	...	...	...	4.67						
18	13	...	...	...	3.18						

JANUARY, 1832, (Continued.)

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain & Snow	Rain & Snow	Rain & Snow	
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.				Snow.
	1st half.	2d half.																		
Onondaga, .....	25.94	23.89	64	52	-12	3	4	...	2	10	1.5	1	9.5	14	17	1.5	3.5	...	1.22	
Oxford,.. ..	...	19.43	84	54	-30	...	3	...	1.5	4	12.5	6.5	3.5	10.5	20.5	.5	7.5	...	2.30	
Pompey, .. ..	24.54	19.27	69	53	-16	...	...	...	2.5	1	16.5	7.5	3	10.5	20.5	1.5	8	...	.90	
Redhook, .. ..	28.16	23.42	58	54	-4	15	...	...	...	13	.5	1.5	1	19.5	11.5	.5	1.5	1	2.16	
St. Lawrence, ..	16.76	13.53	76	47	-29	.5	4.5	.5	...	4.5	12	2	7	10	21	2.5	4.5	...	.60	
Sem. of Gen. and Onei. Conferences, ..	23.77	20.04	78	51	-27	3	...	1.5	...	13	3.5	4.5	5.5	10	21	...	2	...	1.94	
Union, .....	24.23	19.56	66	56	-10	5	1.5	1.5	1.5	5.5	7	2.5	6.5	14.5	16.5	1.5	4.5	1	.75	
Union-Hall, ..	30.14	29.03	65	60	-5	...	6	...	3	.5	4	.5	17	18	13	3	2	...	4.65	
Utica, .. ..	20.22	19.69	70	52	-18	...	...	7	3	...	5	15.5	...	18	13	...	...	...	3.13	

**FEBRUARY, 1832.**

FEBRUARY, 1882, (Continued.)

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain Gauge.		
	Mean temperature.		Highest degree.	Lowest degree.	Range.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow.
	1st half.	2d half.																	
Oxford,.....	27.28	20.28	55	-20	75	.....	1	.....	1.5	3.5	11	10	2	8.5	20.5	2.5	8.5	.....	5.81
Pompey,.....	23.23	19.62	52	-15	67	.....	.5	.....	3.5	3	4	17.5	.5	7	22	3	6	.....	2.00
Redhook,.....	26.12	22.21	46	-8	54	10.5	3.5	1.5	1	11.5	.....	.....	1	17.5	11.5	2	5.5	.....	1.89
St. Lawrence,.....	16.63	16.64	37	-25	62	1	8	.....	.5	2.5	7	1.5	8.5	4	25	1.5	6	.5	1.80
Sem. of Gen. and Onei. Conferences, ..	23.32	17.04	49	-17	66	.....	.....	.....	.5	7.5	2.5	7	11.5	5.5	23.5	.5	5	1.5	3.10
Union, .....	25.16	16.16	43	-24	67	4.5	1.5	.....	1.5	3	4	4	10.5	17	12	3	5	1	.80
Union-Hall, .....	33.00	30.95	57	11	46	.....	9.5	1.5	1.5	1.5	6.5	.....	8.5	13	16	3	3	2	3.25
Utica, .....	25.03	20.45	44	-12	56	.....	.....	8	1.5	.5	4.5	14.5	.....	17	12	.....	.....	.....	5.96

MARCH, 1892.

MARCH, 1832, (Continued.)

[Senate, No. 70.]

B

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain Gauge.		
	Mean temperature.		Range	Highest degree.	Lowest degree.	North	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow
	1st half.	2d half.																	
Onondaga, .....	35.05	35.67	66	69	3	5.5	1	1	8	10	.5	3	2	13	13	1	2.5	....	.54
Oxford,.....	34.09	33.35	79	65	-14	....	....	....	5	5.5	10.5	7	3	12.5	18.5	1.5	5	....	1.04
Pompey,.....	31.18	31.99	68	67	-1	....	....	....	5	1	14	7.5	3.5	13.5	17.5	2.5	6	....	.05
Redhook,.....	34.99	37.01	61	70	9	11.5	1	....	....	18.5	....	....	....	25	6	3	.5	1.5	4.14
St. Lawrence,.....	30.73	32.52	77	63	-9	1.5	3.5	1	....	7.5	6.5	4	7	11.5	19.5	2	4	....	.53
Sem. of Gen. and Onei. Conferences, ..	31.32	31.53	69	63	-6	2	....	....	.5	13	2.5	2	11	15	16	1	6	....	1.31
Union,.....	32.94	35.22	33	47	9	3	1	....	....	1	8	9	9	16.5	14.5	3	2	....	.61
Union-Hall,.....	39.59	37.75	54	66	12	....	1.5	....	6.5	....	13.5	2	7.5	22.5	8.5	4.5	....	....	2.10
Utica,.....	32.54	31.15	69	66	-3	....	....	6.5	5.5	.5	1.5	14.5	2.5	20.5	10.5	....	....	....	1.45



APRIL, 1832.

ACADEMIES.	THERMOMETER.									
	Mean temperature.		Highest degree.	Lowest degree.	Range.	No. of days.	No. of days.	No. of days.	No. of days.	No. of days.
	1st half.	2d half.								
Albany,.....	43.86	46.91	79	18	61	2	3	3.5	6.5	1
Auburn,.....	41.86	45.99	78	17	61	6.5	2	...	6.5	...
Buffalo,.....	38.52	40.17	71	14	57	13	1	...	...	...
Cambridge, Washington,.....	38.19	44.73	75	16	59	18	...	...	4.5	5
Casandaga,.....	42.04	42.96	77	22	55	8	...	1.5	3	...
Cayuga,.....	41.86	43.15	85	24	61	18.5	...	...	10.5	5
Cherry-Valley,.....	39.47	39.47	63	14	54	...	...	...	5.5	...
Clinton,.....	39.43	48.32	66	24	42	...	...	2.5	2.5	...
Cortland,.....	38.47	44.31	59	9	71	1	...	...	...	...
Delaware,.....	32.84	43.86	78	10	68	4	1.5	...	...	...
Dutchess County,.....	47.68	47.38	86	24	62	10	3.5	...	5.5	...
Erasmus Hall,.....	45.24	46.98	77	25	52	...	...	...	...	...
Fairfield,.....	39.94	41.35	73	15	59	1	...	...	...	...
Fredonia,.....	41.91	41.95	80	17	63	10.5	6	...	...	...
Genevieve High School,.....	37.52	44.85	70	16	54	...	...	...	...	...
Hartwick,.....	40.25	46.43	75	16	59	1.5	6	...	...	...
Hudson,.....	46.82	47.85	80	20	60	13.5	6	...	...	...
Johnstown,.....	42.45	46.07	80	13	67	7.5	2	...	...	...
Kinderhook,.....	40.44	46.19	84	16	68	7.5	2	...	...	...
Kingston,.....	47.53	51.57	84	23	61	9.5	2.5	...	...	...
Lewistown,.....	42.00	47.46	80	16	64	...	...	...	...	...
Lowville,.....	47.77	47.47	83	30	53	1.5	6	...	...	...
Middlebury,.....	41.55	46.89	72	10	62	12	5	...	...	...
Montgomery,.....	46.21	46.23	84	12	72	8.5	5	...	...	...
Mount Pleasant,.....	43.16	46.27	77	15	63	1.5	4.2	...	...	...
Newburgh,.....	49.00	52.23	86	26	60	...	...	...	...	...
North-Salem,.....	44.23	45.47	82	23	59	...	...	...	...	...
Oswego,.....	41.85	43.04	75	18	57	6	5.5	...	...	...

2.90  
 1.46  
 1.21  
 4.00  
 2.31  
 1.98  
 2.46  
 3.55  
 3.20  
 3.40  
 2.39  
 2.56  
 1.96  
 4.30  
 .57  
 4.07  
 3.50  
 3.11  
 1.73  
 1.00  
 2.10  
 2.37  
 2.30  
 2.95  
 2.97  
 .85

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)										WEATHER, (NO. OF DAYS.)					Rain Gauge.
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.	Snow.	Rain & Snow.	
	1st half.	2d half.																	
Oxford,.....	38.29	44.54	74	84	10	6.5	1	.5	2.5	.5	9.5	4	5.5	16.5	13.5	5	.5	..	1.71
Pompey,.....	36.69	41.85	59	73	14	2.5	1.5	.5	4	3.5	4	9	5	15	15	6.5	1.5	..	1.21
Redhook,.....	41.71	52.83	61	80	19	15	2	2	..	11	..	..	..	19.5	10.5	5.5	..	1	3.16
St. Lawrence,.....	36.27	43.51	57	68	11	5.5	3.5	2	1	3	5.5	.5	4	14.5	15.5	3.5	1	..	1.23
Sem. of G. and O. Conferences,.....	37.72	43.56	64	77	13	3	5	.5	.5	2.5	4.5	5	9	15.5	14.5	4.5	.5	..	2.42
Union,.....	50.61	44.15	47	70	23	5	3	.5	1	2	6	10	3	17	13	5.5	.5	..	1.43
Union-Hall,.....	43.68	46.54	52	79	27	..	3.5	.5	..	2	6	..	12	20	10	6	..	..	4.25
Utica,.....	37.24	45.67	65	76	11	..	..	9.5	.5	..	2	15.5	2.5	19	11	..	..	..	1.65

MAY, 1832.

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MAY, 1882, (Continued.)

	west prec.	Range.	WINDS, (NO. OF DAYS.)							WEATHER, (NO. OF DAYS.)					Rain fzst.
			North.	N. East.	East.	S. East.	W.	S. W.	N. West.	Clear.	Cloudy.	Rain.	Snow.	Rain & Snow.	
Redhook,.....	28	38	6	1.5	1	2.5	4.5	8.5	5.5	19.5	11.2	3	.....	1	1.92
St. Lawrence,.....	29	52	.....	.....	.....	4	5	9.5	9	18.5	12.5	5	.....	.....	1.95
Sem. of Gen. and Ope. Conference,.....	33	41	17	5	1	6	10	.....	2	19.5	11.5	5	.....	.....	1.28
Union,.....	32	55	3.5	6	1	2.5	2.5	8.5	5	15.5	13.5	9	.....	.....	2.31
Union-Hall,.....	32	49	2	.....	.....	1	3	2	14	19.5	11.5	3.5	.....	.....	3.06
Utica,.....	32	42	5	.....	.....	.....	2	7	4	21	7	4	.....	.....	3.50
.....	32	45	.....	.....	.....	7	4.5	10.5	7	21.5	9.5	7	.....	.....	8.46
.....	37	53	.....	.....	4.5	3.5	3	2.5	15.5	21.5	9.5	.....	.....	.....	2.20

Redhook,.....	86.65	64.41	81
St. Lawrence,.....	52.27	52.21	83
Sem. of Gen. and Ope. Conference,.....	64.18	50.81	81
Union,.....	50.71	63.87	74
Union-Hall,.....	57.66	52.13	77
Utica,.....	53.27	49.91	80

**JUNE, 1832.**

WEATHER, (NO. OF DAYS.)											
No. Days.		Clear.		Cloudy.		Rain.		Snow.		Rain & Snow.	
2	12	1	2.5	9.5	23	5	8	9	9	9	3.67
2	9	10	4	2.5	20.5	17	9	17	17	17	1.49
5	4	5	5	3	20.5	15	15	15	15	15	1.60
13	2	2	9	6.5	15	18	18	18	18	18	1.79
4.5	1	2	9.5	2	20.5	5	5	4	4	4	1.15
2	5	2	17	2	18.5	6.5	6.5	2	2	2	1.85
16	10	7.5	5	8.5	23.5	11.5	11.5	6.5	6.5	6.5	2.11
4	6	3	8	4.5	23.5	5	5	5	5	5	2.24
4	7	2.5	3	13	20.5	6.5	6.5	8	8	8	2.34
13	6	9	9	2.5	21.5	9	9	8	8	8	2.83
2	18.5	1.5	1.5	4.5	24.5	5.5	5.5	1.5	1.5	1.5	2.97
3.5	8.5	3.5	8	4.5	23.5	5.5	5.5	4.5	4.5	4.5	2.15
1	5	7.5	7.5	3	21.5	8.5	8.5	8.5	8.5	8.5	1.64
1.5	12.5	4	4.5	7.5	26	9	9	2.5	2.5	2.5	1.85
6.5	4	4.5	4.5	5.5	21.5	5.5	5.5	6.5	6.5	6.5	1.60
4	4	3.5	3.5	5.5	21.5	5.5	5.5	5.5	5.5	5.5	1.94
4	14.5	5	5	1.5	21.5	5.5	5.5	5.5	5.5	5.5	4.04
5	9	1.5	12.5	2	19.5	10.5	10.5	8.5	8.5	8.5	3.95
5	9	6.5	6.5	1.5	23.5	6.5	6.5	2.5	2.5	2.5	3.23
5	10.5	10	9	2.5	20	10	10	2	2	2	1.85
5	10.5	13.5	7.5	5	22.5	7.5	7.5	3	3	3	1.11
7	10.5	4.5	1.5	1	15	15	15	9	9	9	2.39
5	10.5	5	1.5	8.5	21.5	8.5	8.5	7.5	7.5	7.5	2.70
4.5	1	12.5	12.5	5	25	11	11	5	5	5	1.79
4.5	3	2.5	7.5	7.5	15	18	18	2	2	2	1.25

ACADEMIES.	THERMOMETER.				WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain gage.	
	Mean temperature.		Highest degree.	Lowest degree.	Range.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.	Snow.		Rain & Snow.
	1st half.	2d half.																	
Onondaga, .....	63.13	69.14	90	49	41	4.5	1.5	1	2	11	2.5	1.5	6	23.5	6.5	4	.....	.....	3.08
Oxford,..	62.26	64.61	92	40	52	4	1	.5	.5	2.5	6.5	9.5	5.5	18.5	11.5	4.5	.....	.....	2.63
Pompey, ...	60.13	63.88	83	42	41	3	1	2	.....	.5	11.5	9	3	22.5	7.5	4.5	.....	.....	0.97
Redhook, .....	63.48	69.76	94	46	43	8	5	1.5	.....	13	.5	.....	2	24	6	1.5	.....	.....	2.57
St. Lawrence,.....	62.30	66.27	84	44	40	1	9	.....	.5	.5	6.5	6	6.5	19.5	10.5	4	.....	.....	1.52
Sem. of Gen. and Onei. Conferences, ..	59.55	65.31	84	36	43	.5	1	1.5	1	4.5	2.5	4.5	14.5	22	8	.5	.....	.....	2.20
Union,.....	43.12	50.33	69	32	37	2	4	.....	1.5	1.5	6	9	6	19	12	5.5	1	.....	1.32
Union-Hall, .....	59.99	67.36	83	47	41	.....	.5	.....	5.5	1	12.5	.5	10	23	7	5	.....	.....	.90
Utica,..	60.29	62.09	86	37	49	.....	.....	4.5	2	1.5	3	19	.....	24	6	.....	.....	1.90	

JULY, 1832.

ACADEMIES.	THERMOMETER.			Highest degree.	Lc de	WEATHER, (NO. OF DAYS.)					Rain gauge.
	Mean temperature.		Snow.			Rain.	Cloudy.	Clear.			
	1st half.	2d half.									
Albany.....	71.65	70.91		91		16.5	14.5	12		4.23	
Auburn.....	70.62	68.75		89		17.5	13.5	5		3.85	
Buffalo.....	70.15	68.62		92		18	13	6		1.10	
Cambridge, Washington.....	68.21	67.61		90		17	14	8.5		4.36	
Canajoharie.....	70.44	67.85		95		15.5	10.5	8		2.99	
Canandaigua.....	70.88	67.61		91		17	14	9		3.30	
Cayuga.....	69.81	68.19		91		24.5	6.5	6		4.77	
Cherry-Valley.....	67.95	66.03		96		14.5	16.5	8.5		2.96	
Canton.....	68.75	68.07		84		27.5	3.5	2		1.90	
Carlisle.....	73.91	66.91		92		15	16	6			
Delaware.....	64.53	64.73		92		15	18	6		4.67	
Dutchess County.....	72.25	70.95		99		23	9	6.5		4.98	
Esopus Hall.....	70.10	70.32		88		23.5	7.5	2.5		5.81	
Fairfield.....	66.37	64.17		90		13.5	17.5	7		2.67	
Fredonia.....	79.55	75.44		92		23	8	10		1.62	
Gouverneur High School.....	69.66	66.34		93		20.5	10.5	6.5		3.50	
Hartwick.....	67.95	64.57		90		17	14	5		4.29	
Hudson.....	68.69	63.41		90		20	11	5		6.34	
Johansstown.....	68.15	67.30		94		5	23	3		4.85	
Kiaderhook.....	67.82	67.14		90		16	15	12		10.19	
Kingston.....	74.86	72.28		96		22	9	3		4.09	
Lenoxburgh.....	71.24	69.65		95		16	15	10		5.13	
Lewiston.....	74.60	71.17		90		25	6	2		.63	
Lewville.....	70.38	67.44		93		19	12	3.5		.70	
Middlebury.....	71.30	68.62		96		20.5	10.5	3.5		1.85	
Montgomery.....	73.15	69.05		93		15	16	6.5		4.08	
Monst-Pleasant.....	69.19	70.21		91		21	10	8		3.66	
Newburgh.....	72.83	71.00		95		19	12	...		5.14	
North-Salem.....	69.35	71.03		93		21.5	9.5	6		3.63	

ACADEMIES.	THERMOMETER.				WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain gauge.	
	Mean temperature.		Highest degree.	Lowest degree.	Range	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.	Snow.		Rain & Snow
	1st half.	2d half.																	
Opondaga, .....	69.36	68.76	93	52	41	3	...	...	4	7	2	4	11	18	13	5	...	...	2.86
Oxford,.....	65.52	64.07	93	43	50	3	2	...	...	3.5	7.5	8	7	17.5	13.5	7.5	...	...	.70
Pompey,.....	72.71	63.39	87	50	37	...	...	...	...	.5	17	5	6.5	16.5	14.5	10.5	...	...	3.66
Redhook,.....	69.43	69.17	92	54	33	...	...	3	...	17	1	1.5	.5	11	20	9	...	...	6.82
St. Lawrence,.....	70.73	66.77	87	52	36	7	.5	...	...	2.5	12	5.5	3.5	22	9	6.5	...	...	2.87
Sem. of Gen. and Onei. Conferences, ..	67.12	63.69	89	47	42	1	...	...	.5	3.5	5	5	16	17	14	3.5	...	...	4.35
Union,.....	63.78	70.50	90	39	51	...	.5	1.5	1.5	8	7.5	7	5	24	7	4.5	...	...	1.28
Union-Hall,.....	67.50	70.01	86	52	34	1	...	...	2.5	.5	13	...	14	20	11	8	...	...	6.03
Utica,.....	64.38	62.72	99	48	41	...	...	...	3.5	.5	3.5	23.5	...	22	9	...	...	...	3.64



## AUGUST, 1882.

ACADEMIES.	THERMOMETER.				WINDS, (NO OF									
	Mean temperature.		Highest degree.	Lowest degree.	Range.	Direction.		Force.	Direction.	Force.	Direction.			
	1st half.	2d half.				from N.	to N.				from N.	to N.	Force.	Direction.
Albany.....	73.45	64.80	90	46	44	1	3	5	6	10.5	4	2.5	6	17
Auburn.....	72.52	64.06	86	45	41	1	1.5	7	3	13.5	8	2.5	4	22.5
Buffalo.....	70.46	63.60	88	37	51	4	3	7	3	10	7	1.5	21	8.5
Cambridge, Washington.....	70.71	63.26	88	52	36	1	1	.....	.....	16	7	1.5	19.5	12.5
Canandaigua.....	71.14	65.63	92	44	48	1	1	.....	.....	12	2.5	1.5	18.5	12.5
Cayuga.....	72.46	65.63	91	51	40	8.5	1	.....	.....	20.5	.....	1.5	24.5	6.5
Cherry-Valley.....	70.08	63.36	89	33	56	1	3	1.5	3	5	4	7	20	11
Cleburn.....	63.75	63.07	91	59	31	.....	.....	.....	.....	20.5	12	2	25	24.5
Cortland.....	69.28	63.57	91	36	55	5	1	1	.....	6	5	2	15	16
Delaware.....	69.63	63.24	91	40	47	2.5	1.5	1	.....	3	2	7.5	6	17
Dutchess County.....	73.47	67.71	90	42	48	4.5	1.5	1	.....	3	2	2.5	20	11
Erasmus Hall.....	73.44	67.54	84	60	24	1.5	2	6	5	1.5	8	5	17.5	13.5
Fairfield.....	69.97	62.10	88	84	52	3	.....	.....	.....	1	1.5	14	16.5	16.5
Fredonia.....	70.92	65.91	88	64	24	3	1.5	3.5	2	1.5	11.5	4.5	19.5	11.5
Gouverneur High School.....	67.05	62.92	86	33	48	1.5	.....	.....	.....	13	7	3	6.5	19
Hamilton.....	70.69	61.54	90	40	50	1	2.5	.....	.....	15.5	8	1	8.5	13.5
Hartwick.....	69.50	62.81	90	42	48	1	.....	.....	.....	21.5	1.5	1	8.5	13.5
Hudson.....	70.49	66.77	88	49	40	1	1.5	.....	.....	7	4.5	15	2.5	23
Johnstown.....	73.05	64.64	93	41	52	4.5	1	.....	.....	.....	.....	.....	4.5	23.5
Kanderhook.....	76.46	64.56	89	41	49	4.5	1	2.5	.....	18	2.5	17.5	21	10
Kingston.....	74.07	66.43	91	60	41	5.5	1	.....	.....	16.5	7	1.5	25	8
Laurensburgh.....	73.86	66.00	92	44	48	1	1	.....	.....	16.5	1	10.5	22.5	8.5
Lewiston.....	74.02	69.10	81	53	23	8	.....	.....	.....	17	5	2	2	20
Lowville.....	70.07	64.12	90	33	47	8.5	1	.....	.....	17.5	4.5	3	24	17
Middlebury.....	71.91	65.03	83	33	55	1	.....	.....	.....	6	9	2	14	17
Montgomery.....	69.19	65.07	86	35	45	1	.....	.....	.....	11.5	1	.....	13	14
Mount-Pleasant.....	72.42	66.81	86	45	45	1	.....	.....	.....	11.5	1	.....	13	14
Newburgh.....	74.19	61.94	80	44	44	.....	.....	.....	.....	2.5	10.5	.....	1	15
North-Halen.....	73.56	70.69	86	33	53	2	.....	.....	.....	6	.....	.....	1	15

7.51  
6.75  
2.19  
6.83  
3.08  
4.44  
5.78  
5.46  
3.83  
3.26  
5.91  
5.14  
4.06  
2.60  
6.72  
4.92  
3.60  
1.94  
5.91  
4.94  
4.41  
2.90  
4.45  
3.90  
5.35  
9.51  
7.30  
7.39

# AUGUST, 1832, (Continued.)

ACADEMIES.	THERMOMETER.			WINDS (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain gage.		
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow.
	1st half.	2d half.																	
Onondaga, .....	72.86	67.11	51	95	44	5	1.5	.....	7	11	.....	.5	6	21	10	6.5	.....	.....	6.28
Oxford, .....	67.63	61.27	60	92	32	4	2.5	.5	.....	5.5	8.5	5	5	18.5	12.5	6	.....	.....	5.88
Pompey, .....	67.80	60.32	44	84	40	2.5	1	.....	1.5	4	18.5	.5	3	20	11	6.5	.....	.....	6.45
Redhook, .....	70.17	63.93	40	86	46	6.5	5	1.5	.5	15.5	.....	.....	2	24.5	6.5	5	.....	.....	5.08
St. Lawrence, .....	70.81	64.36	51	89	38	2	2	.5	.....	4	16	.....	4.5	21.5	9.5	1.5	.....	.....	1.34
Sem. of Gen. and Onei. Conferences, ..	68.74	63.79	46	83	42	.....	.5	.....	.....	6.5	10.5	1	12.5	21.5	9.5	3	.....	.....	6.64
Union, .....	65.49	62.74	28	80	52	3	1.5	2.5	1	2	8	5	8	24.5	6.5	1.5	.....	.....	.46
Union-Hall, .....	71.97	67.05	37	87	50	1	4	.....	2	2.5	13.5	.....	8	19	12	10	.....	.....	5.15
Utica, .....	66.92	61.52	45	86	41	.....	.....	1	10.5	3	8.5	8	.....	26	5	.....	.....	.....	11.44

# SEPTEMBER, 1832.

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS )								WEATHER, (NO. OF DAYS.)					Rain Gage.		
	Mean temperature.		Range	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow
	1st half.	2d half.																	
Albany,.....	60.65	64.52	44	86	42	.5	1	.....	3.5	12	2	5.5	5.5	21.5	8.5	11	.....	.....	2.76
Auburn,.....	56.69	58.94	37	80	43	.....	.....	.....	6	9.5	5.5	2	5.5	17.5	12.5	2.5	.....	.....	3.22
Buffalo,.....	57.16	60.55	52	86	34	.....	3	5.5	6	1	12	2	2.5	14.5	15.5	4	.....	.....	3.41
Cambridge, Washington,.....	56.76	60.67	50	84	34	2	.....	.....	1	16.5	5.5	2.5	2.5	21	9	4	.....	.....	3.32
Canajoharie,.....	57.85	62.39	45	82	37	.5	.5	2	8	1	2.5	10	5.5	21.5	8.5	2.5	.....	.....	4.43
Canandaigua,.....	58.66	62.73	44	84	40	.....	.....	.....	.....	15.5	.....	11	3.5	13.5	16.5	13	2	.....	2.00
Cayuga,.....	60.59	63.23	39	81	42	8	.....	.....	.....	20.5	.....	.....	1	21	9	7	.....	.....	3.53
Cherry-Valley,.....	55.64	60.19	51	82	31	.5	2	.5	2	7	6	10.5	1.5	19.5	10.5	4.5	.....	.....	2.92
Clinton,.....	62.04	61.26	46	82	36	.....	3.5	1.5	4	5	8	.5	7.5	24	6	3	.....	.....	3.61
Cortland,.....	56.09	55.06	56	87	32	.....	.....	.....	.....	15.5	1	4.5	9	14	16	4.5	.....	.....	.....
Delaware,.....	53.64	61.17	62	96	34	3.5	.....	.....	.5	1	8	8	9	20	10	2.5	.....	.....	2.12
Dutchess County,.....	61.36	64.75	45	84	39	5.5	1.5	.5	1	15.5	2	2.5	1.5	21.5	8.5	5.5	.....	.....	3.80
Erasmus Hall,.....	62.68	64.22	37	80	43	1.5	.5	.....	3	1.5	11.5	2.5	9.5	22.5	7.5	1	.....	.....	1.91
Fairfield,.....	54.47	67.63	51	90	39	.....	.....	4	5.5	.5	11.5	3.5	15	14.5	15.5	3.5	.....	.....	2.29
Fredonia,.....	58.11	61.40	36	80	44	.5	1	.....	2.5	6	11.5	6.5	2	15.5	14.5	14	.....	.....	4.45
Gouverneur High School,.....	55.81	61.55	53	84	29	.....	.5	1	.....	3	12.5	11	2.5	17	18	7	.....	.....	3.32
Hamilton,.....	58.33	65.95	40	80	40	3.5	.....	.....	.....	9	5.5	3	8.5	18.5	11.5	3	.....	.....	2.85
Hartwick,.....	57.08	58.73	46	80	34	.....	.....	.....	.....	15.5	6.5	3	5	19	11	.5	.....	.....	1.43
Hudson,.....	61.31	64.99	40	80	40	.....	4	.....	10	6.5	4	.....	5.5	21	9	3.5	.....	.....	4.30
Johnstown,.....	58.26	58.55	49	83	34	.....	.5	3	2.5	.....	2	20.5	1.5	13	17	4	.....	.....	1.06
Kinderhook,.....	57.64	62.25	49	85	36	.....	1	.....	1	12.5	.5	1	6	21	9	5.5	.....	.....	3.94
Kingston,.....	61.67	64.91	35	80	45	1	.....	1	3.5	4.5	7.5	9	3.5	21	9	2	.....	.....	.79
Lansingburgh,.....	59.75	63.72	45	84	39	4	1.5	.5	.5	11.5	3	4.5	4.5	20.5	9.6	6	.....	.....	2.37
Lewiston,.....	62.30	63.39	41	84	43	.....	.....	1.5	3	3.5	12.5	6.5	3	13.5	16.5	6	.....	.....	4.95
Lowville,.....	57.46	61.85	42	72	30	6.5	.....	.....	.....	14	.....	6.5	3	17	13	3	.....	.....	2.52
Middlebury,.....	58.39	63.06	57	89	32	1.5	.....	.....	.....	.....	21	5	2.5	19	11	3.5	.....	.....	3.24
Montgomery,.....	62.33	65.43	53	94	36	.5	1	.5	4.5	7	9	2.5	5	19	11	3.5	.....	.....	1.51
Mount-Pleasant,.....	60.96	63.84	40	81	41	8	1	.5	2	4.5	6	2.5	5.5	22	8	3	.....	.....	2.65
Newburgh,.....	63.02	66.45	44	85	41	1	5.5	.....	2	6	13	1	1.5	17	18	.....	.....	.....	1.07

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain fage.		
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow.
North-Salem, . . . . .	60.31	59.30	40	74	34	1	6	1	2.5	2.5	5	1	11	23.5	7.5	3.5	...	...	2.25
Onondaga, . . . . .	57.86	60.24	43	83	40	...	...	...	3.5	15	2.5	1.5	5	19	11	3	...	...	2.16
Oxford, . . . . .	53.93	59.85	52	85	33	...	1.5	...	...	7	9	8.5	2	20	10	3.5	...	...	1.62
Pompey, . . . . .	53.75	57.57	41	77	36	...	...	...	...	.5	22	5.5	2	16	14	5	...	...	2.69
Redhook, . . . . .	58.82	63.48	40	81	41	13	...	1	3.5	10	.5	1.5	.5	22	8	5	...	...	1.83
St. Lawrence, . . . . .	55.77	63.00	52	86	34	...	2.5	...	...	4.5	18	3	2	19	11	3.5	...	...	2.74
Sem. of Gen. and Onei. Conferences, . . .	56.33	61.93	51	83	32	...	...	...	...	10.5	7	4	8.5	20.5	9.5	.5	...	...	2.65
Union-Hall, . . . . .	60.29	62.96	42	83	41	...	8.5	...	...	2	8	1	10.5	23.5	6.5	6	...	...	1.50
Utica, . . . . .	55.71	59.80	39	73	39	...	...	1.5	7.5	1	5	15	...	24	6	...	...	...	4.55

# OCTOBER, 1832.

WEATHER, (NO. OF DAYS.)					
Clear.	Cloudy.	Rain.	Snow.	Rain & Snow.	Rain gage.
17	14	4.5	.....	.....	4.20
17.5	13.5	4.5	.....	.....	2.05
19.5	11.5	4.5	.....	.....	4.03
17.5	13.5	5.5	.....	.....	4.22
14.5	16.5	18	.....	.....	2.11
13.5	15.5	6.5	.....	.....	1.95
17	14	8	.....	.....	3.63
15.5	15.5	2	.....	.....	2.80
16	16	5	.....	.....	.....
15	16	4.5	.....	.....	1.40
17.5	13.5	6	.....	.....	3.73
18.5	12.5	2.5	.....	.....	3.06
9.5	21.5	7.5	.....	.....	4.47
19	12	10	.....	.....	3.75
18	13	7	.....	.....	3.85
16	16	3.5	.....	.....	3.16
14.5	16.5	7.5	.....	.....	3.15
20.5	10.5	3	.....	.....	4.15
14.5	16.5	9.5	.....	.....	1.29
18	13	6	.....	.....	3.63
22	9	3	.....	.....	3.15
16.5	14.5	3	.....	.....	3.15
20	11	4.5	.....	.....	4.00
13.5	17.5	6.5	.....	.....	2.44
15.5	15.5	8.5	.....	.....	3.05
12.5	19.5	4.5	.....	.....	1.54
22	8	4	.....	.....	2.89
14.5	16.5	.....	.....	.....	2.67
16	13	5	.....	.....	4.36
15	13	5	.....	.....	3.73

OCTOBER, 1832, (Continued.)

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain Falls.		
	Mean temperature.		Lowest degree.	Highest degree.	Range.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow
	1st half.	2d half.																	
Onondaga, .....	51.86	49.12	26	78	52	1	2	...	3	15.5	1.5	.5	7.5	13.5	12.5	6	...	2.22	
Oxford,.....	49.36	44.51	15	71	56	7	...	1.5	.5	4	9.5	4.5	4	16.5	14.5	5.5	...	1.64	
Pompey,.....	46.91	44.15	16	69	53	1	1.5	...	3.5	1	10	10.5	3.5	15.5	15.5	8.5	...	2.37	
Redhook, .....	53.30	46.19	30	68	38	16	.5	1	4	9.5	...	...	...	23	8	3.5	...	5.46	
St. Lawrence,.....	47.66	43.61	15	65	50	4.5	1	...	1	6.5	13	...	5	16	15	4.5	...	3.62	
Sem. of Gen. and Onei. Conferences, ..	48.39	47.03	19	70	51	1.5	1	.5	1.5	7	7.5	1.5	10.5	16.5	14.5	4.5	...	2.70	
Union-Hall, .....	54.67	47.85	29	74	45	1	2	...	5.5	.5	11	1	10	22.5	8.5	7	...	.75	
Utica, .....	50.04	44.93	22	72	50	...	...	5.5	1.5	2.5	3	18.5	...	19	12	...	...	2.52	

**NOVEMBER, 1882.**

WEATHER. (NO. OF DAYS.)		WIND.		TEMPERATURE.		HUMIDITY.		PRECIPITATION.		SUNSHINE.	
WIND.	TEMPERATURE.	HUMIDITY.	PRECIPITATION.	SUNSHINE.	WIND.	TEMPERATURE.	HUMIDITY.	PRECIPITATION.	SUNSHINE.	WIND.	TEMPERATURE.
13.5	16.5	6	2	4.5	3.5	11	8	5.5	2.5	2.5	4
11	19	4.5	3.5	1.5	1	1	1	1.5	1	1.14	3.65
11	19	4.5	3.5	1.5	1	1	1	1.5	1	1.90	3.68
10.5	19.5	3.5	1.5	1	1	1	1	1.5	1	1.68	3.67
8.5	21.5	11	8	5.5	2.5	2.5	4	1.5	1	3.40	3.93
12.5	17.5	3	5.5	2.5	2.5	2.5	4	1.5	1	3.89	3.98
13.5	16.5	6	2	4.5	3.5	11	8	5.5	2.5	2.75	4.24
21	9	21	9	21	9	21	9	21	9	4.20	4.20
14.5	15	5	6	3	4	3	4	3	4	1.94	3.60
16	14	4	3	4	3	4	3	4	3		
16	14	4	3	4	3	4	3	4	3		
9.5	20.5	7	6.5	3.5	1	1	1	1.5	1		
11	19	4.5	3.5	1.5	1	1	1	1.5	1		
11	19	4.5	3.5	1.5	1	1	1	1.5	1		
12	22	3	5.5	2.5	2.5	2.5	4	1.5	1		
8	22	3	5.5	2.5	2.5	2.5	4	1.5	1		
21	9	21	9	21	9	21	9	21	9		
11	19	4.5	3.5	1.5	1	1	1	1.5	1		
15.5	14.5	5	6	3	4	3	4	3	4		
12	14	4	3	4	3	4	3	4	3		
12	14	4	3	4	3	4	3	4	3		
6.5	23.5	7	6.5	3.5	1	1	1	1.5	1		
13.5	16.5	6	2	4.5	3.5	11	8	5.5	2.5		
10	20	4	3	4	3	4	3	4	3		
13.5	16.5	6	2	4.5	3.5	11	8	5.5	2.5		
13.5	16.5	6	2	4.5	3.5	11	8	5.5	2.5		
11	19	4.5	3.5	1.5	1	1	1	1.5	1		
14.5	15.5	5	6	3	4	3	4	3	4		

NOVEMBER, 1882, (Continued.)

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain Range		
	Mean temperature.		Range.	Lowest degree.	Highest degree.	North	N. East	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow
	1st half.	2d half.																	
Onondaga, . . . . .	42.50	41.12	50	18	68	6.5	1.5	.....	.5	14	2	.....	5.5	7.5	22.5	5	1.5	.....	2.79.
Oxford,.....	38.58	36.17	52	10	62	1	.5	.....	.....	6.5	8.5	9.5	8.5	11	19	4.5	3.5	.....	2.85
Pompey,.....	35.70	33.39	48	11	59	.....	.....	.5	1	4	14.5	7	3	9	21	6	3	.....	3.09
Redhook, . . . . .	42.95	38.46	39	20	59	12	.....	.....	.....	18	.....	.....	.....	16	14	3	.....	.....	2.47
St. Lawrence,.....	33.56	29.52	43	6	49	2.5	4	.....	.....	4	11	2	6.5	7.5	22.5	2.5	2.5	.....	2.67
Sem. of Gen. and Onel. Conferences, ..	37.59	36.39	53	9	62	.....	.....	.5	2.5	4	11	4	8	10.5	19.5	5	1	.....	3.92
Union-Hall, .....	43.29	41.92	40	24	64	.....	2	.....	2.5	1	5.5	2	17	23	7	6	.....	.....	2.10
Utica,.....	39.51	36.37	47	11	58	.....	.....	7	5	1	2.5	14.5	.....	14	16	.....	.....	.....	6.31



DECEMBER, 1882.

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1882	1881	1880	1879	1878	1877	1876	1875	1874	1873	1872	1871	1870	1869	1868	1867	1866	1865	1864	1863	1862	1861	1860	1859	1858	1857	1856	1855	1854	1853	1852	1851	1850	1849	1848	1847	1846	1845	1844	1843	1842	1841	1840	1839	1838	1837	1836	1835	1834	1833	1832	1831	1830	1829	1828	1827	1826	1825	1824	1823	1822	1821	1820	1819	1818	1817	1816	1815	1814	1813	1812	1811	1810	1809	1808	1807	1806	1805	1804	1803	1802	1801	1800	1799	1798	1797	1796	1795	1794	1793	1792	1791	1790	1789	1788	1787	1786	1785	1784	1783	1782	1781	1780	1779	1778	1777	1776	1775	1774	1773	1772	1771	1770	1769	1768	1767	1766	1765	1764	1763	1762	1761	1760	1759	1758	1757	1756	1755	1754	1753	1752	1751	1750	1749	1748	1747	1746	1745	1744	1743	1742	1741	1740	1739	1738	1737	1736	1735	1734	1733	1732	1731	1730	1729	1728	1727	1726	1725	1724	1723	1722	1721	1720	1719	1718	1717	1716	1715	1714	1713	1712	1711	1710	1709	1708	1707	1706	1705	1704	1703	1702	1701	1700	1699	1698	1697	1696	1695	1694	1693	1692	1691	1690	1689	1688	1687	1686	1685	1684	1683	1682	1681	1680	1679	1678	1677	1676	1675	1674	1673	1672	1671	1670	1669	1668	1667	1666	1665	1664	1663	1662	1661	1660	1659	1658	1657	1656	1655	1654	1653	1652	1651	1650	1649	1648	1647	1646	1645	1644	1643	1642	1641	1640	1639	1638	1637	1636	1635	1634	1633	1632	1631	1630	1629	1628	1627	1626	1625	1624	1623	1622	1621	1620	1619	1618	1617	1616	1615	1614	1613	1612	1611	1610	1609	1608	1607	1606	1605	1604	1603	1602	1601	1600	1599	1598	1597	1596	1595	1594	1593	1592	1591	1590	1589	1588	1587	1586	1585	1584	1583	1582	1581	1580	1579	1578	1577	1576	1575	1574	1573	1572	1571	1570	1569	1568	1567	1566	1565	1564	1563	1562	1561	1560	1559	1558	1557	1556	1555	1554	1553	1552	1551	1550	1549	1548	1547	1546	1545	1544	1543	1542	1541	1540	1539	1538	1537	1536	1535	1534	1533	1532	1531	1530	1529	1528	1527	1526	1525	1524	1523	1522	1521	1520	1519	1518	1517	1516	1515	1514	1513	1512	1511	1510	1509	1508	1507	1506	1505	1504	1503	1502	1501	1500	1499	1498	1497	1496	1495	1494	1493	1492	1491	1490	1489	1488	1487	1486	1485	1484	1483	1482	1481	1480	1479	1478	1477	1476	1475	1474	1473	1472	1471	1470	1469	1468	1467	1466	1465	1464	1463	1462	1461	1460	1459	1458	1457	1456	1455	1454	1453	1452	1451	1450	1449	1448	1447	1446	1445	1444	1443	1442	1441	1440	1439	1438	1437	1436	1435	1434	1433	1432	1431	1430	1429	1428	1427	1426	1425	1424	1423	1422	1421	1420	1419	1418	1417	1416	1415	1414	1413	1412	1411	1410	1409	1408	1407	1406	1405	1404	1403	1402	1401	1400	1399	1398	1397	1396	1395	1394	1393	1392	1391	1390	1389	1388	1387	1386	1385	1384	1383	1382	1381	1380	1379	1378	1377	1376	1375	1374	1373	1372	1371	1370	1369	1368	1367	1366	1365	1364	1363	1362	1361	1360	1359	1358	1357	1356	1355	1354	1353	1352	1351	1350	1349	1348	1347	1346	1345	1344	1343	1342	1341	1340	1339	1338	1337	1336	1335	1334	1333	1332	1331	1330	1329	1328	1327	1326	1325	1324	1323	1322	1321	1320	1319	1318	1317	1316	1315	1314	1313	1312	1311	1310	1309	1308	1307	1306	1305	1304	1303	1302	1301	1300	1299	1298	1297	1296	1295	1294	1293	1292	1291	1290	1289	1288	1287	1286	1285	1284	1283	1282	1281	1280	1279	1278	1277	1276	1275	1274	1273	1272	1271	1270	1269	1268	1267	1266	1265	1264	1263	1262	1261	1260	1259	1258	1257	1256	1255	1254	1253	1252	1251	1250	1249	1248	1247	1246	1245	1244	1243	1242	1241	1240	1239	1238	1237	1236	1235	1234	1233	1232	1231	1230	1229	1228	1227	1226	1225	1224	1223	1222	1221	1220	1219	1218	1217	1216	1215	1214	1213	1212	1211	1210	1209	1208	1207	1206	1205	1204	1203	1202	1201	1200	1199	1198	1197	1196	1195	1194	1193	1192	1191	1190	1189	1188	1187	1186	1185	1184	1183	1182	1181	1180	1179	1178	1177	1176	1175	1174	1173	1172	1171	1170	1169	1168	1167	1166	1165	1164	1163	1162	1161	1160	1159	1158	1157	1156	1155	1154	1153	1152	1151	1150	1149	1148	1147	1146	1145	1144	1143	1142	1141	1140	1139	1138	1137	1136	1135	1134	1133	1132	1131	1130	1129	1128	1127	1126	1125	1124	1123	1122	1121	1120	1119	1118	1117	1116	1115	1114	1113	1112	1111	1110	1109	1108	1107	1106	1105	1104	1103	1102	1101	1100	1099	1098	1097	1096	1095	1094	1093	1092	1091	1090	1089	1088	1087	1086	1085	1084	1083	1082	1081	1080	1079	1078	1077	1076	1075	1074	1073	1072	1071	1070	1069	1068	1067	1066	1065	1064	1063	1062	1061	1060	1059	1058	1057	1056	1055	1054	1053	1052	1051	1050	1049	1048	1047	1046	1045	1044	1043	1042	1041	1040	1039	1038	1037	1036	1035	1034	1033	1032	1031	1030	1029	1028	1027	1026	1025	1024	1023	1022	1021	1020	1019	1018	1017	1016	1015	1014	1013	1012	1011	1010	1009	1008	1007	1006	1005	1004	1003	1002	1001	1000	999	998	997	996	995	994	993	992	991	990	989	988	987	986	985	984	983	982	981	980	979	978	977	976	975	974	973	972	971	970	969	968	967	966	965	964	963	962	961	960	959	958	957	956	955	954	953	952	951	950	949	948	947	946	945	944	943	942	941	940	939	938	937	936	935	934	933	932	931	930	929	928	927	926	925	924	923	922	921	920	919	918	917	916	915	914	913	912	911	910	909	908	907	906	905	904	903	902	901	900	899	898	897	896	895	894	893	892	891	890	889	888	887	886	885	884	883	882	881	880	879	878	877	876	875	874	873	872	871	870	869	868	867	866	865	864	863	862	861	860	859	858	857	856	855	854	853	852	851	850	849	848	847	846	845	844	843	842	841	840	839	838	837	836	835	834	833	832	831	830	829	828	827	826	825	824	823	822	821	820	819	818	817	816	815	814	813	812	811	810	809	808	807	806	805	804	803	802	801	800	799	798	797	796	795	794	793	792	791	790	789	788	787	786	785	784	783	782	781	780	779	778	777	776	775	774	773	772	771	770	769	768	767	766	765	764	763	762	761	760	759	758	757	756	755	754	753	752	751	750	749	748	747	746	745	744	743	742	741	740	739	738	737	736	735	734	733	732	731	730	729	728	727	726	725	724	723	722	721	720	719	718	717	716	715	714	713	712	711	710	709	708	707	706	705	704	703	702	701	700	699	698	697	696	695	694	693	692	691	690	689	688	687	686	685	684	683	682	681	680	679	678	677	676	675	674	673	672	671	670	669	668	667	666	665	664	663	662	661	660	659	658	657	656	655	654	653	652	651	650	649	648	647	646	645	644	643	642	641	640	639	638	637	636	635	634	633	632	631	630	629	628	627	626	625	624	623	622	621	620	619	618	617	616	615	614	613	612	611	610	609	608	607	606	605	604	603	602	601	600	599	598	597	596	595	594	593	592	591	590	589	588	587	586	585	584	583	582	581	580	579	578	577	576	575	574	573	572	571	570	569	568	567	566	565	564	563	562	561	560	559	558	557	556	555	554	553	552	551	550	549	548	547	546	545	544	543	542	541	540	539	538	537	536	535	534	533	532	531	530	529	528	527	526	525	524	523	522	521	520	519	518	517	516	515	514	513	512	511	510	509	508	507	506	505	504	503	502	501	500	499	498	497	496	495	494	493	492	491	490	489	488	487	486	485	484	483	482	481	480	479	478	477	476	475	474	473	472	471	47
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DECEMBER, 1882, (Continued.)

ACADEMIES.	THERMOMETER.			WINDS (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain & Snow	Rain & Snow	Rain & Snow	
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.				Snow.
	1st half.	2d half.																		
North-Salem, .....	35.41	30.13	45	49	4	4	5	2	3	1	2.5	4	9.5	13	18	6.5	2.5	1	3.67	
Onondaga, .....	35.69	30.40	36	48	12	14	2	.....	.....	9	.....	.....	5.5	5	25.5	4	1.5	.....	2.90	
Oxford, .....	32.42	24.97	47	49	2	8.5	4.5	.....	1.5	5.5	8.5	4.5	3	3.5	22.5	2	4.5	.....	3.57	
Pompey, .....	29.69	23.73	40	44	4	1	.5	.....	4	7	7.5	4.5	8.5	5	26	3	4.5	.....	1.69	
Redhook, .....	34.21	26.95	40	50	10	18.5	.....	4	.....	8	.5	.....	.....	19.5	11.5	1.5	1.5	.....	2.17	
St. Lawrence, .....	22.19	15.97	57	45	-12	5	7	.....	.5	4	7	.....	7.5	6.5	24.5	1	3.5	.....	.80	
Sem. of Gen. and Onei. Conferences, ..	31.75	24.57	36	44	8	.....	.....	1.5	5.5	5	4	4.5	10.5	13	18	3	3.5	.....	3.50	
Union-Hall, .....	35.98	31.55	39	50	11	.5	5.5	1	3	.....	4	.....	17	20	11	6	3	1	5.01	
Utica, .....	31.69	24.96	42	46	4	.....	.....	3	8	5	3.5	11	.....	17	14	.....	.....	.....	5.15	

**RECAPITULATION AND RESULTS, NO. 1.**

RECAPITULATION AND RESULTS, NO. 1, (Continued.)

ACADEMIES.	MEAN TEMPERATURE OF EACH MONTH.												Annual Mean.	Highest degree during the year.	Lowest degree during the year.	Annual Range.	Greatest mo. Range.	Coldest day in the year.	Warmest day in the year.	First frost in autumn.	First fall of snow.
	January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.									
Pompey,.....	21.90	21.42	31.58	39.27	50.20	62.00	68.05	64.06	55.66	45.48	34.54	26.71	43.40	87	-16	103	69	January 26	July 1	15 October	27
Redhook,.....	25.79	24.16	36.00	47.29	56.53	66.12	69.30	67.06	61.15	49.74	40.70	30.58	47.88	94	-8	102	61	February 24	June 16	14 October	15
St. Lawrence,.....	17.67	16.63	31.68	39.89	52.24	64.28	68.75	67.58	59.37	45.63	31.44	19.02	42.84	89	-29	118	77	January 26	July 5	1 November	6
Sem. of G. and O. Co.	21.90	20.18	31.45	40.64	52.49	61.93	66.40	66.27	59.15	47.71	36.99	23.16	44.96	89	-27	116	72	January 26	July 1	7 October	27
Union-Hall,.....	29.53	31.92	33.62	45.11	54.92	63.63	68.75	69.01	61.32	51.26	42.60	33.74	49.20	88	-5	93	65	January 27	July 7	15 December	3
Utica,.....	19.95	22.74	31.84	41.45	51.59	61.19	63.55	64.11	57.75	47.48	37.94	28.32	43.99	89	-18	107	70	January 26	July 2	15 November	8



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IN EACH MONTH. 7 DAYS.)

July.	Augst.	West.	N. West.	Prevailing Wind.
S	S	52½	86½	South.
SW	S	28	90½	South.
SW	SW	33	42½	Southwest.
S	S	30	20	South.
W	W	118½	70½	South.
S	W	34	5½	South.
W	S	110	49	West.
SW	SW	35	76½	Northwest.
NW	S	43	123½	South.
S	S	21	21½	South.
SW	S	30	102	Southwest.
NW	SW	66	156½	Northwest.
W	NW	70½	49	Southwest.
W	SW	105	42½	Southwest.
SW	W	54	63½	South.
NW	S	27½	125	South.
SE	S	18	55½	Southeast.
W	SE	180	41	West.
S	W	6½	70½	South.
W	S	112	57	West.
S	W	71	29½	South.
W	S	72½	31	South.
SW	SW	44½	29	South.
SW	S	45½	39	Southwest.
SW	SW	33½	58	Southwest.
SW	SW	24	105½	Northwest.
SW	S	18	31½	Southwest.
SW	SW	19½	114½	Northwest.
SW & SW	SW	15½	88	South.
NW	S	83½	49½	Southwest.
W	SW	94	48½	Southwest.
SW	S	4½	9	South.
SW	SW	29½	67	Southwest.
NW	NW	46½	141½	Northwest.
SW & NW	SW	7	138½	Northwest.
W	SE	185	7	West.



RECAPITULATION AND RESULTS, NO. 8.



**RECAPITULATION AND RESULTS, NO. 3, (Continued.)**

## RECAPITULATION AND RESULTS, NO. 4.

[Senate, No. 70.]

[illegible]

RECAPITULATION AND RESULTS, NO. 4, (Continued.)

COMPARISON OF THE WARMEST AND COLDEST DAY IN EACH MONTH.

ACADEMIES.	January.		February.		March.		April.		May.		June.		July.		August.		September.		October.		November.		December.	
	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.
Onondaga, .....	18	26	2	24	25	19	13	5	14	1	15	4	6	14	13	28	16	9	20	23	1	15	8	21
Oxford, .....	18	26	2	24	11	18	26	5	14	24	15	4	1	13	13	24	20	13	19	23	4	15	8	21
Pempey, .....	18	9	2	24	24	14	26	5	14	5	25	6	1	13	14	25	19	25	19	23	4	15	31	22
Redhook, .....	18	26	12	24	25	14	26	9	13	24	16	5	7	12	14	25	20	13	10	25	19	15	8	23
St. Lawrence, .....	18	26	28	24	25	18	26	5	13	4	15	18	5	21	14	25	20	13	17	23	1	15	31	23
Sen. of G. and O Co., .....	18	26	2	24	25	1	25	8	13	2	16	9	1	13	30	25	19	13	19	23	1	15	8	23
Union-Hall, .....	18	27	19	24	12	13	27	6	14	24	17	3	20	11	15	28	19	13	10	23	19	15	8	23
Utica, .....	18	26	2	24	25	18	26	5	14	24	15	19	1	13	13	25	17	13	19	23	1	15	31	24

## RECAPITULATION AND RESULTS, NO. 5.

December.	Lowest.												Highest.											
	6	16	6	7	6	16	6	7	6	16	6	7	6	16	6	7								
Albany, .....	50	-8	44	-11	63	9	79	19	86	23	91	49	91	56	70	46	86	36	80	43	89	37	28	
Albany, .....	37	-7	50	-6	66	4	79	17	76	30	81	45	89	52	81	46	86	37	86	43	72	31	23	
Amherst, .....	46	-10	44	-22	70	14	71	14	81	27	84	23	90	52	89	37	86	34	84	40	73	27	16	
Buffalo, .....	49	-19	48	-11	68	4	77	22	78	36	83	17	91	53	92	40	88	36	84	43	70	21	17	
Cambridge, Wash. ....	41	-30	49	-11	63	4	77	22	78	36	83	17	91	53	92	40	88	36	84	43	70	21	17	
Canandaigua, .....	67	-2	50	-4	76	10	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Cayuga, .....	50	-24	50	-15	66	0	86	14	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Cherry Valley, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Glenn, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58	1	57	10	67	14	86	24	88	32	90	38	95	61	91	51	89	38	81	42	78	21	17	
Oriskany, .....	58</																							



## MISCELLANEOUS OBSERVATIONS, No. 1.

(PROGRESS OF VEGETATION, &c.)

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*First Thunder Storm.*—March 12, Albany; March 12, Utica; March 31, Onondaga; March 12, Redhook; April 16, Union-Hall; March 31, Gouverneur; March 12, Hamilton; March 12, Hudson; March 31, Johnstown; March 12, Kinderhook; April 26, Lansingburgh; May 16, Lewiston; May 19, Lowville; March 13, Montgomery; January 8, Erasmus-Hall; March 13, Fairfield; May 19, Pompey; May 5, Rochester; March 31, Canajoharie; May 19, Middlebury; March 12, Dutchess; March 12, North-Salem; March 11, Canandaigua; April 26, Bridgewater; May 19, Auburn; March 12, Cambridge, (Washington); May 4, Cherry-Valley; May 19, Cortland; May 17, Fredonia; March 10, Mount-Pleasant.

*Frogs first heard.*—April 1, Hudson; March 25, Kinderhook; March 24, Lewiston; March 16, Montgomery; March 9, Mount-Pleasant; March 23, Onondaga; April 12, St. Lawrence; April 13, Utica; April 9, Middlebury; March 8, North-Salem; April 14, Cazenovia; March 30, Cambridge, (Washington); April 6, Cortland; March 10, Erasmus-Hall; April 12, Fairfield; March 23, Fredonia; April 10, Hamilton; March 9, Union-Hall.

*Blue birds seen.*—March 10, Hudson; March 4, Kinderhook; March 3, Redhook; March 12, Utica; March 4, North-Salem; April 14, Cazenovia; April 16, Bridgewater; April 11, Buffalo; March 6, Dutchess; February 19, Erasmus-Hall; March 15, Fairfield; March 24, Fredonia.

*Martins seen.*—April 13, Rochester; April 22, Bridgewater; April 5, Erasmus-Hall; April 25, Lansingburgh; April 16, Cazenovia.

*Pigeons seen in flocks.*—March 12, Dutchess; March 24, Fairfield; March 25, Hamilton; April 25, Hudson.

*Robins first seen.*—March 13, Pompey; March 26, Canajoharie; March 14, Franklin; March 3, Dutchess; April 16, Bridgewater; March 18, Cazenovia; March 13, Auburn; March 30, Buffalo; March 12, Cambridge, (Washington); March 9, Erasmus-Hall; March 24, Fairfield; March 22, Fredonia; March 25, Hamilton; March 24, Hudson; March 17, Johnstown; March 10, Kinderhook; March 23, Lewiston; March 9, Redhook; March 15, Utica; March 28, Albany; April 10, St. Lawrence.

*Swallows first seen.*—April 27, St. Lawrence; April 26, Pompey; April 22, Bridgewater; April 7, Auburn; April 28, Cambridge, (Washington); April 25, Clinton; April 25, Erasmus-Hall; April 16, Fredonia; May 5, Gouverneur; April 24, Hamilton; May 8, Hudson; April 24, Johnstown; April 25, Kinderhook; April 25, Lansingburgh; May 2, Lewiston; April 20, Montgomery; April 23, Mount-Pleasant.

*Daffodils in bloom.*—April 18, Dutchess; April 30, Pompey; April 18, North-Salem; April 22, Bridgewater; May 2, Cazenovia; April 9, Hudson; April 14, Onondaga; April 23, Utica.

*Apples in blossom.*—May 28, Pompey, May 18, Canajoharie; May 11, Middlebury; May 6, Dutchess; May 15, North-Salem; May 10, Canandaigua; May 20, Cazenovia; June 1, Cherry-Valley; May 31, Clinton; May 16, Cortland; May 13, Erasmus-Hall; May 12, Fredonia; May 19, Hamilton; May 17, Hudson; May 15, Kinderhook; May 14, Lewiston; May 31, Lowville; May 3, Onondaga; May 19, Oxford; May 12, Redhook; May 14, Union-Hall; May 21, Utica.

*Lilacs in blossom.*—May 17, Hudson; May 11, Ithaca; May 18, Kinderhook; May 15, Lewiston; May 21, Oxford; May 14, Union-Hall; May 16, Utica; June 4, Pompey; May 19, Canajoharie; May 19, North-Salem; June 1, Bridgewater; May 24, Cazenovia; May 28, Buffalo; May 22, Cortland; May 13, Fredonia.

*Peach in blossom.*—May 1, Dutchess; May 8, North-Salem; May 1, Canandaigua; May 18, Clinton; May 6, Erasmus-Hall; May 8, Hudson; May 9, Lewiston; April 28, Montgomery; May 6, Union-Hall. The peaches in this vicinity do not blow, the flower-buds being probably killed by the severity of the past winter, Middlebury; May 7, Redhook.

*Currants in blossom.*—May 13, St. Lawrence; April 26, Union-Hall; May 5, Utica; May 6, Oxford; April 27, Mount-Pleasant; April 26, Montgomery; May 3, Onondaga; April 28, Dutchess; May 13, Pompey; April 30, North-Salem; May 1, Canandaigua; May 18, Bridgewater; May 12, Cazenovia; May 15, Clinton; April 29, Fredonia; May 10, Hamilton; May 10, Hartwick; May 16, Hudson; May 5, Kinderhook; May 10, Lansingburgh.

*Plums in blossom.*—May 18, Pompey; May 6, Middlebury; April 29, Dutchess; May 8, North-Salem; May 14, Bridgewater; May 12, Cazenovia; May 12, Cherry-Valley; May 10, Cortland; May 13, Fairfield; May 11, Hamilton; May 11, Hartwick; May 8, Hudson; May 8, Kinderhook; May 12, Lansingburgh; May 10, Lowville; May 1, Montgomery; May 17, Utica; May 5, Redhook; May 11, St. Lawrence.

*Shad bush in bloom.*—May 5, Middlebury; April 25, Canandaigua; April 22, Bridgewater; May 4, Erasmus-Hall; April 24, Fredonia; May 10, Hamilton; May 5, Hudson; April 30, Kinderhook; May 5, Oxford; May 8, St. Lawrence.

*Cherries in blossom.*—May 18, Pompey; May 15, Canajoharie; April 28, Dutchess; May 1, Canandaigua; June 1, Bridgewater; May 28, Clinton; May 6, Erasmus-Hall; May 16, Fairfield; May 3, Fredonia; May 6, Hudson; May 15, Johnstown; May 13, Lansingburgh; May 9, Kinderhook; May 9, Lewiston; May 1, Montgomery; April 27, Mount-Pleasant; May 3, Redhook; May 3, Union-Hall; May 15, Utica.

*Strawberries in blossom.*—May 18, Pompey; May 10, North-Salem; June 1, Bridgewater; May 2, Fredonia; May 5, Onondaga; May 19, Oxford.

*Cherries ripe.*—June 24, Dutchess; July 14, Hudson; June 26, Lewiston; June 22, Union-Hall; July 3, Utica.

*Gooseberries ripe.*—July 11, Canajoharie.

*Raspberries ripe.*—July 10, Canajoharie; July 5, Hudson; July 15, Onondaga; July 10, Redhook; July 8, Utica.

*Rye Harvest.*—July 24, Canajoharie; July 16, North-Salem; August 1, Bridgewater; July 14, Union-Hall.

*Indian corn in silk.*—July 26, Canajoharie; August 1, North-Salem.

*Currants ripe.*—June 28, Middlebury; June 27, Fredonia; July 5, Hudson; July 4, Onondaga; July 1, Redhook.

*Hay harvest commenced.*—July 15, Cazenovia; July 7, Canandaigua; July 16, Bridgewater; July 2, Cortland; July 3, Fredonia; June 22, Hamilton; July 15, Hudson; June 28, Redhook, June 22, Union-Hall.

*Strawberries ripe.*—June 11, Union-Hall; June 21, Utica; June 13, St. Lawrence; June 16, Onondaga; June 23, Oxford; June 28, Delaware; June 16, Canajoharie; June 18, Dutchess; May 31, North-Salem; June 23, Cazenovia; June 21, Buffalo; June 17, Cherry-Valley; June 18, Clinton; June 16, Cortland; June 9, Erasmus-Hall; June 8, Fredonia; June 26, Hudson; June 10, Lewiston.

*Green peas.*—June 20, Utica; July 3, Cazenovia; June 19, Erasmus-Hall; June 24, Fredonia; June 23, Hamilton; June 28, Hudson; July 2, Lewiston; June 24, Redhook; June 18, Union-Hall.

*Wheat harvest.*—July 16, Montgomery; July 17, Union-Hall; August 7, Lowville; July 31, Canajoharie; July 26, Middlebury; July 23, Dutchess; July 24, North-Salem; August 1, Bridgewater; August 1, the straw was fully ripe, whilst the kernel was soft and unripe, Cazenovia; July 28, Buffalo; July 31, Clinton; July 30, Cortland; July 10, Hudson; July 26, Lansingburgh; July 21, Utica.

*Indian corn ripe.*—August 7, Middlebury; August 8, Buffalo; July 31, Fredonia; July 21, Hudson; August 13, Union-Hall; July 20, Utica.

*Ripe apples.*—July 25, Dutchess; August 2, North-Salem; August 9, Hudson; July 28, Utica.

*Peaches ripe.*—Sept. 15, Buffalo; August 14, Hudson; September 1, Rochester.

June 12. Locusts appeared in unusual numbers settling upon the branches of trees very thickly, throughout a grove of ten or twelve acres in extent, Fredonia.



## MISCELLANEOUS OBSERVATIONS, No. 2.

(ATMOSPHERICAL PHENOMENA, &c.)

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### AURORA BOREALIS NOTICED.

January 22, at Cazenovia and Utica.

March 26, at Johnstown and Utica.

March 27, at Pompey, at 9 P. M. with a faint white light, extending a third of the way to the zenith, continued two or three hours. Lowville and Utica.

April 10, brilliant at Fredonia.

April 19, at Cazenovia.

April 21, at Cazenovia.

April 24, at Pompey and Utica.

April 28, at Lewiston.

May 12. A lurid bank in the north, with occasional beams of light shooting upwards, Kinderhook.

May 29, at Cazenovia.

May 31, at Lewiston.

June 1, at Lowville.

June 2, 10 P. M. at Cazenovia and Johnstown.

June 20, at Johnstown.

August 12, feebly visible at Cazenovia.

August 22, at Pompey and Middlebury. Very brilliant, continued at night, Franklin. Auburn and Kinderhook. It appeared with a steady pale light, no flashes or streaks. It extended  $45^{\circ}$  east and west of north. Some lightning in the south-east.—Lowville. Very brilliant at 9 P. M. An arch of about  $60^{\circ}$  of the northern horizon was spanned by two arches of light, the upper one narrow, the lower one reaching over the whole northern horizon. The altitude of the northern and highest part of the arch was about  $30^{\circ}$ . This appearance soon changed, and streams appeared shooting towards the zenith. It continued brilliant through the night.—Cazenovia.

August 23. This evening, splendid. It continued most of the evening. The southern termination of the light was bounded by a broad bright arch, both ends resting on the horizon. It presented an appearance nearly phosphorescent. The inner edge of the arch was about  $30^{\circ}$  above the northern horizon.—Ithaca. Johnstown, Pompey and Middlebury. Very brilliant at Franklin. North-Salem. 10 P. M. unusually brilliant. It first appeared in two pillars, nearly in the east and west, and afterwards the light shot up-

wards, forming a luminous arch of great brilliancy. The appearance was nearly similar to that noticed by the observer at Pompey, and described in the Regents' report for 1827.—Canandaigua. Brilliant at 9 P. M. at Auburn. Brilliant at Fredonia. Kinderhook. Unusually brilliant at St. Lawrence. A few minutes past 11 P. M. the A. B. assumed that uncommonly splendid and beautiful appearance which has been observed with so much interest in different parts of our country within a few years past, presenting a well defined arch of light, having its vertex elevated at about 55 degrees on the magnetic meridian, and its ends resting in the northeastern and northwestern horizon. In its appearance it differed in nothing from former ones, except that in the whole length the light was more uniformly dense and the edges more distinctly defined. It was very brilliant for several hours, and a dark cloud rested in the north from which the streams of light apparently rose.—Utica. About half past 9, P. M. a dark arch was seen extending from N. E. to N. W. The whole sky enclosed by the arch was of a beautiful yellow, constantly variegated by streaks shooting up from 20 to 40° above the horizon, and often moving laterally with great rapidity, and at the same time there was a constant waving from the horizon toward the top of the arch. Some broad rays of light were continued above the arch to the zenith. No wind perceptible, but the vane pointed N. W.—Fairfield.

**August 24.** At half past 8 P. M. forming a very brilliant arch about 7° wide, and the altitude on the meridian about 25°, which spanned the northern quadrant of the horizon. At 10 o'clock, very brilliant streams shot over beyond the zenith.—Cazenovia. Very brilliant, shooting frequently to the zenith, from 9 to 10.—Lowville.

**August 24.** Very brilliant at Gouverneur. Albany.

**September 1.** Feeble at Cazenovia.

**September 16,** at Middlebury.

**September 23,** at North-Salem. In an arch across the north horizon at Cazenovia. Utica.

**October 7.** Observed at 7 P. M. at Fredonia.

**October 30,** at Pompey.

**November 15,** at Utica.

## HALOES, &amp;c.

- January 16. Lunar halo observed at Pompey, Cazenovia, Cortland, Kinderhook, Union-Hall and Utica.
- March 16. Lunar Halo at Utica. Albany, observed by M. H. Webster. The prismatic colours were visible for a few minutes.
- April 11. The appearance of the moon uncommonly beautiful as it shone through a misty cloud, presenting about its disc many of the colours of the rainbow.—Kinderhook.
- June 8. Circle round the moon.
- July 4. A very singular appearance around the moon, viz. a very dense yellow cloud seemed to envelop it, reaching to a distance on each side, about equal to the apparent diameter of the moon, having its external edge very distinctly defined. Enclosing this, was a ring of a brilliant white colour, not so dense as the interior yellow portion. Its width was about the same as that of the yellow. On its inner edge it joined to it, yet the division line was perfectly distinct.—Cazenovia.
- July 6. Evening, a very splendid lunar rainbow was seen at Lewiston.
- August 4. At 11 A. M. a bright halo round the sun. Thermometer  $86^{\circ}$ .—North-Salem.
- August 30. Halo round the moon at Kinderhook.
- September 23. Most beautiful appearance in the west a few moments after sunset near the horizon. A lively straw colour appeared blending with a perfect white above it. Still higher, a gentle crimson suffused the whole horizon. The appearance extended about the fourth of a circle.—Mount-Pleasant.

## METEORS.

- June 1. A very bright meteor seen at 10 P. M. elevated about  $30^{\circ}$  above the horizon, moving rapidly from southwest to northeast.—Pompey.
- June 21. A brilliant meteor passed from west to east a little north of the zenith at 9 o'clock.—Cazenovia.
- August 23. A small meteor in the north at an angle of  $45^{\circ}$ ; very brilliant.—Lewiston.
- September 18. Numerous small meteors or falling stars seen this evening.—Kinderhook.
- September 28. A very beautiful meteor passed the eastern horizon at half past 7. Its altitude was about  $40^{\circ}$ , and the arch of the circle which it described contained about  $45$  or  $50^{\circ}$  of a great circle. In the middle of its course it was about in the east and at its greatest

altitude. At the end of its course it was at about the same altitude as at the beginning. It was large, and appeared at first to burn with a brilliant white flame like zinc; next a deep red, and lastly a beautiful blue. These colours were very distinct. A train of light followed it, 10 or 15° long. It appeared to burst or separate just before it was extinguished.—Cazenovia.

October 29. A very bright meteor, apparently three feet in diameter, was seen to rise about 7 P. M. After making an arch in the heavens, accompanied with a loud hissing noise, it fell in the northwest. When near the horizon an opaque ball about one foot in diameter was visible, whose surface occasionally sparkled as if gunpowder was thrown upon it. Sky clear. Erasmus-Hall.

### EARTHQUAKE.

January 22. On the evening of this day, a little before 12 o'clock, many of our citizens were aroused by a sudden and violent agitation of the earth, accompanied by a sound similar to that produced by a number of heavy carriages passing rapidly over frozen ground. This lasted about one minute. The night was cold and clear, and no air stirring. The shock was more perceptible a few miles north.—Lowville. Slight earthquake at St. Lawrence.

The following is extracted from the Ogdensburgh and Montreal papers. The Ogdensburgh Republican of January 24 says that the shock of an earthquake was felt at that place on Sunday evening last at about half past 11. Houses were shaken so much as to awaken many from sleep, and the tremulous motion of every thing was painfully perceptible to every person awake. The rattling of stoves, crockery and windows, with the vibration of every thing moveable, together with a sound like distant thunder underneath the surface of the earth, was distinctly witnessed by all who had not retired to sleep. There were three distinct shocks, the second being the most violent, at intervals of about half a minute, and the rumbling noise continued two or three minutes. The Montreal Courant of Jan. 25 says: A slight shock of an earthquake was felt in this city on Sunday night last between 11 and 12. The motion resembled the shaking of a steam-boat whose machinery agitates her much. It continued for about four seconds, and was accompanied with an indistinct noise.—Albany.

## WEATHER.

- January 26.** Thermometer at —17 at Syracuse and —23 at Salina.—Onondaga. At Nashville, Tennessee, sunrise, 18° below zero. Thermometer suspended outside of the college edifice in the second story, with a northern exposure.—*Nashville newspaper.* 18° below zero at Kingston, Upper Canada.
- January 27.** Thermometer at 6 A. M. at Ballston at 28° below zero, and on the 28th at 7 A. M. at 26° below zero.—*Ballston Spa Gazette,*
- January 28.** Thermometer in the morning at Union college, Schenectady, 24° below zero.—*Schenectady Cabinet.*
- January 27.** At Boston, 17° below zero. This was on Friday. The change of temperature from Wednesday morning to Friday morning was about 70°.—*Boston Gazette.*
- February 24.** Thermometer 30° below zero at Kingston, Upper Canada.—*New-York American.*
- February 29.** The snow has been for some time between three and four feet deep on a level in the woods.—Lowville.
- Winter of 1831–32.** The Potomac was frozen over on the night of the 4th of December, and remained so until the 18th of January; it was again frozen over on the night of the 24th of January, and continued so until the 5th of February, and was perfectly clear of ice on the 8th. The Chesapeake bay itself was frozen over on or about the 27th of January, at which time the thermometer stood at 2° below zero, a point heretofore unknown in our latitude. There have been, since cold weather commenced, twenty-two *trackable* snow storms and six snow squalls, five hail storms, thirteen rains, some very heavy and of long continuance, and also eight drizzles.—*T. Mountford, of the Alexandria Museum, District of Columbia.*
- March 10.** Sleighing gone, having continued almost without interruption since November 27, 1831.—Middlebury.
- March 8.** Good sleighing until this time from November 21, 1831, with the exception of a few days in January.—Candaigua.
- March 12.** Ibid at Cazenovia. Good sleighing from November 22, 1831, to March 25, at Cortland. Continual sleighing from December 1 to March 8, at Hamilton.
- May 24.** Snow in the northeastern towns of Rensselaer county.—Lansingburgh.
- May.** The mean average temperature of May, 1832, is six degrees colder than that of May, 1831.—*Newport Mercury, (Rhode-Island.)* The mean temperature at Salem, Mass. of May, 1832, was 51.3; of May, 1831, 57.4. *Salem newspaper.*

- June 15. Thunder storm, strong wind, heavy rain, accompanied with hail stones of such a size that injury would probably have been done to the crops were it not that the lower strata of air were so warm that the hail appeared to melt as soon as it reached the ground.—Kinderhook.
- June 18. A destructive hail storm passed over the northeast part of this county, producing in some places a partial, in others a total destruction of fruit, grain, &c.; in some cases breaking window glass upon three sides of a house. The wind was during the time very variable, but the main direction of the storm was from N. W. to S. E., and its violent effects were felt for a number of miles in length and from one to three in breadth. The hail stones in this village were as large as chesnuts, and were said by persons from the places most devastated to be there as large as hen's eggs, and some still larger. Some of them were brought the day after the storm a distance of about twenty miles and shown in the village, and were at that time as large as black walnuts.—Lansingburgh.
- July 29. Two thunder storms in the evening and a very heavy one in the night, during which a barn seven miles south was struck.—Albany.
- August 7. An awful and tremendous thunder storm at White-Plains, Westchester county, commenced at 6 P. M. In one hour and fifty minutes the river Bronx and the smaller streams rose twenty inches higher than was ever before known; the water completely inundated the valleys of the Bronx and of its various tributaries, sweeping away whole meadows of hay, cornfields, bridges, fences and sheep, uprooting large trees and destroying roads, and in fact, completely deforming the face of the cultivated country. Hay stacks and other property were destroyed by lightning. The rain was also very severe in Rockland county.—*New-York American*.
- August 18. During the night a very severe storm of rain commenced, which continued through the forenoon of the next day. During about twelve hours nearly 3.5 inches of rain fell, a greater quantity than has ever been observed in an equal length of time since the settlement of the place.—Cazenovia.
- August 26. A. M. A frost very thick upon the roofs of buildings, boards and other objects a few feet (2, 4 and 6,) above the surface of the earth.—Franklin.
- The month of August in this year was distinguished for an unusual quantity of water falling mostly in showers. The quantity which fell during a very severe thunder shower on the 9th, and particularly the rain which fell in the night of the 18th and the fore-

noon of the 19th, exceeded that of any former observation in this place. From the earth's having been completely saturated, and the streams more than usually filled by previous showers, the rain on the 19th produced an alarming and destructive flood, sweeping away bridges and fences, mills and mill dams, and the crops of the field within its reach. The canal through the city overflowed and inundated the lower part, covering streets and vacant lots with several inches of water, and filling the cellars and basement stories of many dwellings. The large embankment of the canal at the west end of the city yielded to the pressure of the water, and by thus opening a passage for the torrent into the Mohawk, severe damages to the city were probably prevented. The cholera commenced with an alarming attack on the 12th of August. Previous to this month the summer had been remarkably pleasant and delightful. There had been few rainy days, the heat had not been intense, and the atmosphere apparently possessed a mildness and softness which favored the rapid growth of vegetation. A period of better health has scarcely ever been known.—Utica.

October 28, 29, 30. Indian summer.—Rochester.

November 8. Snow at Cleaveland, Ohio; very early for this section of country.

November 12. Snow at Lynchburgh, Virginia.

### HUDSON RIVER.

March 5. The ice in the river broke up opposite Newburgh.—Newburgh.

March 12. River opened about 10 P. M. at Poughkeepsie.—Dutchess.

December 31. The river not closed.—Dutchess.

March 12. River open.—Hudson.

December 22. River closed with ice.—Hudson.

January 20. River open; January 26, closed again; March 12, open.—Lansingburgh. December 22, closed.—Ib.

March 13. Ice broke up, river clear at Albany, but closed below. 99 days closed. Cold weather and a snow storm interposed. The first steam-boat (Constitution, capt. Hoyt,) came up March 25; 111 days closed.—Albany.

### ERIE CANAL.

April 24. Navigation of the canal commenced for the season: December 20, closed; a few boats were run at short distances by cutting the ice, until the 25th.—Utica.

## GENESEE RIVER.

Genesee river clear of ice, January 20.—Rochester.

## LAKE ERIE.

Lake Erie cleared of ice May 1.—Rochester.

May 10. Navigation on lake Erie open.—Buffalo.

May 9. First steam-boat from Buffalo to Dunkirk, a port 2½ miles north of Fredonia.—Fredonia.

## CAYUGA LAKE.

February 24. Cayuga lake was frozen across opposite the village of Aurora. This is not known to have ever before occurred. It was crossed by several persons and chained. The width was found to be 3½ miles and 33½ rods.—Cayuga.

## OTSEGO LAKE.

April 18. The ice left the lake.—Bridgewater.

## CANESERAGA OR LINCKLAEN LAKE.

April 18. Ice out of the lake.—Cazenovia.

December 19. Lake closed.—Cazenovia.



(A.)

## MINERALOGY.

*Native Sulphate of Iron*, discovered by the Principal on the farm of Mr. Gerard Crane.

*Carburet of Iron*, at the same place; and also sulphur combined with a little copper.

*Bisulphuret of Iron*, discovered at Kent, Putnam county.

*Quartz* in crystals, on Long Pond mountain, about two miles from the Academy.

*Potter's Clay*, found east of the Academy.

*Asbestos in Limestone*, two miles west.

At two miles east, a stone of about 100 tons, composed of granite, mostly stands upon a limestone pedestal.

In the next return, a catalogue of the minerals in this vicinity will be given.

*North Salem.*

(B.)

## A CATALOGUE

Of the indigenous *Flowering* and *Filicoid* Plants growing  
within 20 miles of Bridgewater, (Oneida co.) N. Y.

### CLASS I. VASCULARES, or Flowering Plants.

#### SUB-CLASS I. EXOGENÆ.

#### TRIBE I. ANGIOSPERMÆ.

##### 1. *Polypetalous, Apetalous, &c.*

<i>Aralia nudicaulis,</i> <i>racemosa,</i> <i>hispida, Mx.</i>	<i>Caltha palustris,</i>
<i>Panax trifolium,</i> <i>quinquefolium,</i>	<i>Trollius laxus,</i>
<i>Hydrocotyle americana,</i>	<i>Coptis trifolia,</i>
<i>Sanicula marilandica,</i> <i>canadensis,</i>	<i>Aquilegia canadensis,</i>
<i>Cicuta maculata,</i> <i>bulbifera,</i>	<i>Ranunculus flammula,</i>
<i>Cryptotaenia canadensis, De Can.</i>	<i>filiformis, Mx.</i>
<i>Uraspermum claytoni, Nutt.</i>	<i>abortivus,</i>
<i>Sium latifolium,</i> <i>lineare,</i>	<i>hirsutus,</i>
<i>Sison aureus,</i> <i>integerrimus,</i>	<i>repens,</i>
<i>Angelica atropurpurea,</i> <i>triquinata, Mx.</i>	<i>acris,</i>
<i>Pastinaca sativa,</i>	<i>recurvatus,</i>
<i>Heracleum lanatum,</i>	<i>aquatilis,</i>
<i>Conium maculatum,</i>	<i>Actæa americana,</i>
<i>Clematis virginica,</i> <i>verticillaris, De Cand.</i>	<i>Sanguinaria canadensis,</i>
<i>Thalictrum dioicum,</i> <i>polygamum,</i>	<i>Chelidonium majus,</i>
<i>Anemone virginiana,</i> <i>aconitifolia, Mx.</i>	<i>Nymphæa odorata,</i>
<i>nemorosa,</i>	<i>Nuphar advena,</i> <i>kalmiana,</i>
<i>Hepatica americana,</i> <i>acutiloba,</i>	<i>Brasenia hydropeltis,</i>
[Senate, No. 70.]	<i>Flœrkea uliginosa,</i>
	<i>Podophyllum peltatum,</i>
	<i>Nasturtium amphibium,</i> <i>natans, De Cand.</i>
	<i>Barbarea vulgaris,</i>
	<i>Arabis lyrata,</i>
	<i>Cardamine rhomboidea,</i> <i>pennsylvanica,</i> <i>pratense?</i>
	<i>Dentaria diphylla,</i> <i>laciniata,</i>

<b>Capsella bursa-pastoris,</b>	<b>Pyrus arbutifolia, L.</b>
<b>Erysimum officinale,</b>	<b>melanocarpa,</b>
<b>n. sp.? (E. asperum aff.)</b>	<b>botryapium,</b>
<b>Sinapis nigra,</b>	<b>ovalis,</b>
<b>Corydalis glauca,</b>	<b>Prunus virginiana,</b>
<b>cucullaria,</b>	<b>serotina,</b>
<b>canadensis, Goldie.</b>	<b>pennsylvanica,</b>
<b>fungosa,</b>	<b>Medicago lupulina,</b>
<b>Polanisia graveolens, Raf.</b>	<b>Melilotus vulgaris,</b>
<b>Liriodendron tulipiferum,</b>	<b>alba,</b>
<b>Laurus benzoin,</b>	<b>Trifolium pratense,</b>
<b>sassafras,</b>	<b>repens,</b>
<b>Leontice thalictroides,</b>	<b>arvense,</b>
<b>Menispermum canadense,</b>	<b>Robinia pseudo-acacia,</b>
<b>Circæa alpina,</b>	<b>Halseya acuminata, Torrey.</b>
<b>lutetiana,</b>	<b>nudiflora, Torrey.</b>
<b>Bartonia tenella,</b>	<b>Desmodium canadense, DeCand.</b>
<b>Lythrum verticillatum,</b>	<b>ciliare,</b>
<b>Shepherdia canadensis, Nutt.</b>	<b>viridiflorum,</b>
<b>Asarum canadense,</b>	<b>obtusum,</b>
<b>Comandra umbellata, Nutt.</b>	<b>rotundifolium,</b>
<b>Dirca palustris,</b>	<b>paniculatum,</b>
<b>Sanguisorba canadensis,</b>	<b>bracteosum,</b>
<b>Potentilla norwegica,</b>	<b>Lespedeza hirta,</b>
<b>canadensis,</b>	<b>violacea,</b>
<b>argentea,</b>	<b>Vicia sativa,</b>
<b>Fragaria virginiana,</b>	<b>Amphicarpa monoica,</b>
<b>Dalibarda repens,</b>	<b>Apios tuberosa,</b>
<b>fragarioides,</b>	<b>Lupinus perennis,</b>
<b>Geum strictum,</b>	<b>Cassia marilandica,</b>
<b>virginianum,</b>	<b>Urtica canadensis,</b>
<b>album,</b>	<b>capitata,</b>
<b>rivale,</b>	<b>pumila,</b>
<b>Agrimonia eupatoria,</b>	<b>Humulus lupulus,</b>
<b>Rubus villosus,</b>	<b>Boehmeria cylindrica,</b>
<b>strigosus,</b>	<b>Ulmus americana,</b>
<b>canadensis,</b>	<b>fulva,</b>
<b>occidentalis,</b>	<b>Quercus alba, &amp;c.</b>
<b>trivialis, Mx.</b>	<b>Castanea americana,</b>
<b>flagellaris, Ph.</b>	<b>Corylus americana,</b>
<b>odoratus,</b>	<b>Fagus ferruginea,</b>
<b>Rosa parviflora,</b>	<b>sylvatica,</b>
<b>gemella,</b>	<b>Betula populifolia,</b>
<b>carolina,</b>	<b>nigra,</b>
<b>rubiginosa,</b>	<b>papyracea,</b>
<b>Spiræa alba,</b>	<b>Alnus serrulata,</b>
<b>Gillenia trifoliata,</b>	<b>Carpinus americana,</b>
<b>Cratægus crus-galli,</b>	<b>Ostrya virginica,</b>
<b>pyrifolia,</b>	<b>Salix rosamarinifolia,</b>
<b>punctata? &amp;c.</b>	<b>myricoides,</b>
<b>Sorbus americana,</b>	<b>prinoides,</b>

**Salix vitellina**, et multis aliis.

**Populus tremuloides**,  
    **grandidentata**,

**Platanus occidentalis**,  
**Comptonia asplenifolia**,

**Juglans nigra**,  
    **cinerea**,

**Carya porcina**,  
    **amara**,

**squamosa**,

**Acalypha virginica**,

**Euphorbia maculata**,  
    **hypericifolia**,

**Celastrus scandens**,

**Rhamnus alnifolius**,

**Ceanothus americanus**,

**Staphylea trifolia**,

**Acer rubrum**,  
    **saccharinum**,

**nigrum**,

**pennsylvanicum**,

**montanum**,

**Ampelopsis quinquefolia**,

**Vitis cordifolia**, *Mx.*

**riparia**?

**Sida abutilon**,

**Malva cordifolia**,

**Tilia glabra**,

**Hypericum ascyroides**,  
    **perforatum**,  
    **corymbosum**,  
    **quinquenervium**,  
    **virginicum**,  
    **cystifolium**, *Lam.*

**Saxifraga virginica**,  
    **pennsylvanica**,

**Chrysosplenium oppositifolium**,

**Mitella diphylla**,  
    **cordifolia**,

**Tiarella cordifolia**,

**Parnassia caroliniana**,

**Hamamelis virginica**,

**Ribes floridum**,  
    **prostratum**, *L'Her.*  
    **gracile**,  
    **triflorum**,

**Epilobium spicatum**,  
    **angustifolium**,  
    **coloratum**,  
    **molle**, *Torrey.*

**Oenothera biennis**,

**Oenothera pumila**,

**Isnardia palustris**,

**Rhus typhinum**,

**vernix**,

**toxicodendron**,

**Xanthoxylum fraxineum**,

**Geranium maculatum**,  
    **robertianum**,

**Oxalis stricta**,  
    **acetosella**,

**Impatiens fulva**,

**pallida**,

**Polygala paucifolia**,

**polygama**,

**verticillata**,

**Viola obliqua**, *Ait.*

**cordata**, *Schw.*

**rotundifolia**,

**blanda**,

**canadensis**,

**muhlenbergii**, *Tor.*

**rostrata**,

**pubescens**,

**eriocarpa**, *Schw.*

**Drosera rotundifolia**,

**Sarracenia purpurea**,

**Silene noctiflora**,

**Stellaria longifolia**,  
    **lanceolata**, *Tor.*

**media**,

**Arenaria lateriflora**,

**serpyllifolia**,

**Cerastium vulgatum**,

**viscosum**,

**nutans**, *Raf.*

**Agrostemma githago**,

**Portulacca oleracea**,

**Claytonia virginica**,

**Penthorum sedoides**,

**Scleranthus annuus**,

**Chenopodium album**,  
    **hybridum**,

**botrys**,

**Blitum capitatum**,

**Polygonum aviculare**,

**erectum**,

**punctatum**,

**mite**,

**virginianum**,

**amphibium**, et var.

**pennsylvanicum**,

Polygonum persicaria,  
 convolvulus,  
 cilinode,  
 sagittatum,  
 arifolium,  
 Rumex crispus,

Rumex verticillatus,  
 acutus,  
 obtusifolius,  
 acetosella,  
 Saururus cernuus,  
 Callitriche intermedia.

## 2. Monopetalous Plants.

Nemopantes fascicularis, *Raf.*  
 Prinos verticillatus,  
 verticillatus, var. tenuifolius.  
 Arbutus uva-ursi,  
 Gaultheria procumbens,  
 hispidula,  
 Andromeda polifolia,  
 calyculata,  
 ligustrina,  
 Kalmia latifolia,  
 angustifolia,  
 glauca,  
 Epigæa repens,  
 Rhododendron maximum,  
 nudiflorum,  
 Ledum latifolium,  
 Vaccinium stamineum,  
 resinosum,  
 corymbosum,  
 canadense, *Rich.*  
 pennsylvanicum,  
 Oxycoccus vulgaris,  
 macrocarpus,  
 Pyrola rotundifolia,  
 elliptica,  
 asarifolia,  
 secunda,  
 uniflora,  
 umbellata,  
 Monotropa uniflora.  
 lanuginosa,  
 Lobelia inflata,  
 syphilitica,  
 kalmii,  
 cardinalis,  
 Momordica echinata,  
 Plantago major,  
 lanceolata,  
 Dipsacus sylvestris,  
 Fedia radiata, *Mx.*  
 Hieracium venosum,  
 marianum,

Hieracium paniculatum,  
 Prenanthes alba,  
 altissima,  
 Leontodon taraxacum,  
 Lactuca elongata,  
 Sonchus oleraceus,  
 Arctium lappa,  
 Carduus arvensis,  
 lanceolatus,  
 muticus,  
 discolor,  
 Inula helenium,  
 Gnaphalium uliginosum,  
 plantagineum,  
 decurrens,  
 Antennaria margaritacea,  
 Erigeron bellidifolium,  
 purpureum,  
 strigosum,  
 Aster conyzoides,  
 novæ-angliæ,  
 patens,  
 paniculatus,  
 corymbosus,  
 macrophyllus,  
 linariifolius,  
 amygdalinus, &c.  
 Solidago canadensis,  
 gigantea,  
 nemoralis,  
 bicolor,  
 tenuifolia,  
 cæsia,  
 latifolia,  
 axillaris, *Ph.* &c.  
 Eupatorium trifoliatum,  
 purpureum,  
 maculatum,  
 perfoliatum,  
 ageratoides,  
 Tussilago farfara,  
 Senecio aureus,

Senecio hieracifolius,  
 Helenium autumnale,  
 Helianthus decapetalus,  
     trachelifolius,  
 Rudbeckia laciniata,  
 Bidens frondosa,  
     connata,  
     chrysanthemoides,  
     beckii, *Tor.*  
 Polymnia canadensis,  
 Chrysanthemum leucanthemum,  
 Xanthium strumarium,  
 Ambrosia trifida,  
     artemisifolia,  
 Tanacetum vulgare,  
 Artemisia absinthium,  
 Anthemis cotula,  
 Achillea millefolium,  
 Galium trifidum,  
     var. latifolium.  
     aspellum,  
     aparine,  
     triflorum,  
     pilosum,  
     circæzans,  
     lanceolatum, *Tor.*  
     boreale,  
 Cephalanthus occidentalis,  
 Mitchella repens,  
 Lonicera hirsuta, *Eaton.*  
     parviflora,  
 Linnæa borealis,  
 Triosteum perfoliatum,  
 Diervilla tournefortii,  
 Sambucus pubens,  
     canadensis,  
 Viburnum lentago,  
     nudum,  
     dentatum,  
     lantanoïdes,  
     acerifolium,  
     oxycoccus,  
 Cornus canadensis,  
     florida,  
     sericea,  
     circinata,  
     alba,  
     paniculata,  
     alternifolia,  
 Asclepias syriaca,  
     phytolaccoides,

Asclepias incarnata,  
     quadrifolia,  
     tuberosa,  
 Apocynum pubescens, *R. Br.*  
     hypericifolium,  
     androsæmifolium,  
 Gentiana quinqueflora,  
 Houstonia cœrulea,  
 Menyanthes trifoliata,  
 Convolvulus sepium,  
     spithamæus,  
 Cuscuta americana,  
 Phlox divaricata,  
 Fraxinus acuminata,  
     sambucifolia,  
 Trientalis americana,  
 Lysimachia stricta,  
     capitata, *Ph.*  
     quadrifolia,  
     ciliata,  
 Samolus valerandi,  
 Utricularia gibba,  
     cornuta,  
     macrorrhiza, *Le Conte.*  
 Orobanche americana,  
     uniflora,  
 Epiphagus virginiana, *Nutt.*  
 Veronica officinalis,  
     serpyllifolia,  
     beccabunga,  
     anagallis,  
     scutellata,  
     arvensis,  
     peregrina,  
 Leptandra virginica, *Nutt.*  
 Scrophularia marilandica,  
 Antirrhinum linaria,  
 Mimulus ringens,  
 Gratiola virginica,  
 Lindernia dilatata,  
 Chelone glabra,  
 Collinsia verna, *Nutt.*  
 Gerardia flava,  
     glaucæ,  
     pedicularia,  
 Pedicularis canadensis,  
 Euchroma coccinea, *Nutt.*  
 Melampyrum americanum,  
 Solanum nigrum,  
     dulcamara,  
 Physalis viscosa,

**Datura stramonium,**  
                                     var. *tatula*.  
**Verbascum thapsus,**  
                                     *blattaria*,  
**Justicia pedunculosa,**  
**Verbena hastata,**  
                                     *urticifolia*,  
**Lycopus virginicus,**  
                                     *europæus*,  
**Mentha borealis,**  
                                     *viridis*,  
                                     *piperita*,  
**Lophanthus nepetoides, Benth.**  
**Collinsonia canadensis,**  
**Monarda kalmiana, Ph.**  
**Blephilia nepetoides, Raf.**  
**Galeopsis tetrahit,**  
**Leonurus cardiaca,**  
**Lamium amplexicaule,**

**Stachys sylvatica,**  
**Nepeta cataria,**  
**Glechoma hederacea,**  
**Hedeoma pulegioides,**  
**Clinopodium vulgare,**  
**Prunella americana,**  
**Scutellaria lateriflora,**  
                                     *galericulata*,  
**Lithospermum arvense,**  
**Onosmodium hispidum,**  
**Symphytum officinale,**  
**Myosotis palustris,**  
**Echinosperrum lappula,**  
                                     *virginiana*,  
**Cynoglossum officinale,**  
                                     *virginicum*,  
**Hydrophyllum canadense,**  
                                     *virginicum*.

## TRIBE II. GYMNOSPERMÆ.

**Juniperus communis,**  
                                     *prostrata*,  
**Thuja occidentalis,**  
**Taxus canadensis,**  
**Pinus rigida,**  
                                     *strobus*,

**Abies balsamea,**  
                                     *canadensis*,  
                                     *nigra*,  
                                     *alba*,  
**Larix microcarpa.**

## SUB-CLASS II. ENDOGENÆ.

### TRIBE I. PETALOIDEÆ.

**Sagittaria sagittifolia,**  
                                     *heterophylla*,  
**Alisma plantago,**  
**Udora canadensis, Nutt.**  
**Vallisneria spiralis,**  
**Hypoxis erecta,**  
**Iris versicolor,**  
**Sisyrinchium anceps,**  
**Goodyera pubescens,**  
                                     *repens*,  
**Neottia gracilis, Bigelow.**  
                                     *latifolia*,  
**Listera convallarioides,**  
**Pogonia ophioglossoides,**  
                                     *verticillata*,  
**Calopogon pulchellus,**  
**Corallorhiza verna,**  
                                     *multiflora*,

**Arethusa bulbosa,**  
**Triphora pendula, Nutt.**  
**Orchis spectabilis,**  
                                     *tridentata*,  
                                     *obsoleta?*  
**Habernaria psycodes,**  
                                     *dilitata*,  
                                     *bracteata*,  
                                     *orbiculata*,  
                                     *fimbriata*,  
**Mycrostylis ophioglossoides, Nl.**  
**Cypripedium pubescens,**  
                                     *spectabile*,  
                                     *acaule*,  
**Juncus effusus,**  
                                     *tenuis*,  
                                     *nodosus*,  
                                     *bufonius*,

Juncus acuminatus, polycephalus,	Uvularia perfoliata, grandiflora, sessilifolia,
Luzula pilosa, campestris,	Lilium canadense, philadelphicum,
Veratrum viride,	Erythronium americanum,
Pontederia cordata, var. angustifolia.	Typha latifolia,
Schollera graminifolia,	Sparganium ramosum, americanum,
Allium tricoccum,	Acorus calamus,
Smilax peduncularis, rotundifolia,	Symplocarpus foetida,
Convallaria bifolia, stellata, trifolia, racemosa, umbellata, <i>Mx.</i> multiflora, biflora,	Calla palustris, Arum triphyllum, virginicum,
Streptopus roseus, <i>Mx.</i> distortus, <i>Mx.</i>	Potamogeton natans, fluitans, perfoliatum, lucens, pectinatum, gramineum, compressum,
Gyromia virginica, <i>Nutt.</i>	Lemna minor, polyrhiza, trisulca.
Trillium pictum, <i>Ph.</i> erectum, var. album. grandiflorum,	

## TRIBE II. GLUMACEÆ.

*Gramineæ.*

Agrostis vulgaris, lateriflora, tenuiflora, sylvatica, <i>Tor.</i>	Setaria viridis, Anthoxanthum odoratum, Aira flexuosa, Trisetum purpurascens, <i>Tor.</i> airoides, <i>P. de B.</i>
Trichodium scabrum, laxiflorum,	Arundo canadensis, <i>Mx.</i>
Polypogon racemosus, <i>Nutt.</i>	Danthonia spicata,
Cinna arundinacea,	Phragmites communis,
Brachyelytrum aristatum,	Festuca nutans, pratensis,
Alopecurus aristulatus, <i>Mx.</i>	Dactylis glomerata,
Phleum pratense,	Koeleria pennsylvanica, truncata,
Phalaris americana, <i>Ell.</i>	Bromus secalinus, pubescens, purgans, canadensis, <i>Mx.</i>
Milium effusum,	Poa annua, aquatica, var. americana.
Panicum crus-galli, clandestinum, latifolium, depauperatum, dichotomum, nitidum, capillare,	pratensis, compressa,
Digitaria sanguinalis,	



*Poa serotina*,  
*nemoralis*,  
*nervata*,  
*elongata*, *Tor.*  
*canadensis*, *Tor.*  
*reptans*,  
*Glyceria fluitans*,  
*Elymus canadensis*,  
*glaucifolius*,  
*villosus*,

*Elymus hystrix*,  
*Triticum repens*,  
*Spartina cynosuroides*,  
*Andropogon nutans*,  
*furcatum*,  
*scoparium*,  
*Leersia oryzoides*,  
*virginica*,  
*Oryzopsis asperifolia*.

### *Cyperaceæ.*

*Cyperus flavescens*,  
*strigosus*,  
*mariscoides*,  
*Dulichium spathaceum*,  
*Scirpus tenuis*,  
*palustris*,  
*capitatus*,  
*acicularis*,  
*intermedius*,  
*americanus*,  
*lacustris*,  
*atrovireus*,  
*macrostachyos*,  
*eriphorum*,  
*N. sp. (eriphorum aff.)*  
*capillaris*,  
*Eriophorum alpinum*,  
*polystachyon*,  
*angustifolium*,  
*virginicum*,  
*Schoenus mariscoides*,  
*Rhynchospora alba*,  
*Carex sterilis*, *Willd.*  
*bromoides*,  
*cephalophora*,  
*rosea*,  
*stipata*,  
*multiflora*,  
*sparganoides*,  
*disperma*, *Dewey.*  
*paniculata*,  
*teretiuscula*,  
*muricata*,  
*deweyana*, *Schw.*  
*trisperma*, *Dewey.*  
*scoparia*,  
*lagopodioides*,  
*cristata*,

*Carex festucacea*,  
*stellulata*,  
*scirpoides*,  
*curta*,  
*aurea*, *Nutt.*  
*acuta*,  
*var. sparsiflora*,  
*cæspitosa*,  
*crinita*,  
*polytrichoides*,  
*pedunculata*,  
*squarrosa*,  
*hirsuta*,  
*gracillima*, *Schw.*  
*torreyana*, *Dewey.*  
*pubescens*,  
*varia*,  
*marginata*,  
*flava*,  
*tentaculata*,  
*folliculata*,  
*xanthophysa*,  
*lupulina*,  
*plantaginea*,  
*anceps*,  
*alba*, *var. setifolia*, *Dew.*  
*oligocarpa*,  
*granularis*,  
*scabrata*, *Schw.*  
*laxiflora*,  
*flexuosa*,  
*sylvatica*,  
*livida*, *Wahl.?*  
*miliacea*,  
*umbellata*,  
*pallascens*,  
*hystericina*,  
*limosa*,

*Carex pseudo-cyperus*,  
*trichocarpa*,  
*filiformis*,  
*ampullacea*,

*Carex bullata*,  
*schweinitzii*, *Dew.*  
*retrorsa*, *Schw.*  
*lacustris*.

## CLASS II. CELLULARES, or Flowerless Plants.

### TRIBE I. FILICOID PLANTS.

*Equisetum hyemale*,  
*arvense*,  
*sylvaticum*,  
*limosum*,  
*variegatum*,  
*Polypodium vulgare*,  
*hexagonopterum*,  
*connectile*,  
*calcareum*,  
*Onoclea sensibilis*,  
*Aspidium acrostichoides*,  
*noveboracense*,  
*cristatum*,  
*goldianum*, *Hook.*  
*marginale*,  
*dilatatum*,  
*asplenioides*,  
*angustum*,  
*tenue*,  
*bulbiferum*,

*Dicksonia pilosiuscula*,  
*Asplenium angustifolium*,  
*ebeneum*,  
*trichomanes*,  
*thelypteroides*,  
*Pteris aquilina*,  
*Adiantum pedatum*,  
*Struthiopteris pennsylvanica*,  
*Osmunda regalis*,  
*cinnamonea*,  
*interrupta*,  
*Botrychium simplex*,  
*virginicum*,  
*gracile*,  
*Ophioglossum*, *N. sp.*  
*Lycopodium clavatum*,  
*complanatum*,  
*dendroideum*,  
*annotinum*,  
*lucidulum*.

A. GRAY, M. D.

January 1, 1833.

[Senate, No. 70.]

H

(C.)

## A CATALOGUE OF PLANTS,

Growing spontaneously in the vicinity of Cortland Academy,  
Homer, Cortland county, New-York.

- |    |  |    |                                      |
|----|--|----|--------------------------------------|
| 1  | <i>Acer</i> <i>barbatum</i> ,            | 39 | <i>Aralia</i> <i>hispida</i> ,       |
| 2  | <i>dasycarpum</i> ,                      | 40 | <i>medicalis</i> ,                   |
| 3  | <i>nigrum</i> ,                          | 41 | <i>racemosa</i> ,                    |
| 4  | <i>saccharinum</i> ,                     | 42 | <i>Arctium</i> <i>lappa</i> ,        |
| 5  | <i>striatum</i> ,                        | 43 | <i>Arethusa</i> <i>bulbosa</i> ,     |
| 6  | <i>spicatum</i> ,                        | 44 | <i>Aronia</i> <i>arbutifolia</i> ,   |
| 7  | <i>rubrum</i> ,                          | 45 | <i>botryapium</i> ,                  |
| 8  | <i>Achillea</i> <i>millefolium</i> ,     | 46 | <i>melanocarpa</i> ,                 |
| 9  | <i>Acorus</i> <i>calamus</i> ,           | 47 | <i>Artemesia</i> <i>absinthium</i> , |
| 10 | <i>Actæa</i> <i>rubra</i> ,              | 48 | <i>abrotanum</i> ,                   |
| 11 | <i>alba</i> ,                            | 49 | <i>vulgaris</i> ,                    |
| 12 | <i>Adiantum</i> <i>pedatum</i> ,         | 50 | <i>Arum</i> <i>triphyllum</i> ,      |
| 13 | <i>Agropyron</i> <i>repens</i> ,         |    | var. <i>atropurpureum</i> et         |
| 14 | <i>Agrostemma</i> <i>githago</i> ,       |    | <i>album</i> .                       |
| 15 | <i>Alisma</i> <i>plantago</i> ,          | 51 | <i>Asarum</i> <i>canadensis</i> ,    |
| 16 | <i>Allium</i> <i>canadense</i> ,         | 52 | <i>Asclepias</i> <i>syriaca</i> ,    |
| 17 | <i>trifolium</i> ,                       | 53 | <i>phytolaccoides</i> ,              |
| 18 | <i>porrum</i> ,                          | 54 | <i>amœna</i> ,                       |
| 19 | <i>Alnus</i> <i>serrulata</i> ,          | 55 | <i>pulchra</i> ,                     |
| 20 | <i>glauca</i> ,                          | 56 | <i>purpurascens</i> ,                |
| 21 | <i>Amaranthus</i> <i>albus</i> ,         | 57 | <i>parviflora</i> ,                  |
| 22 | <i>hybridus</i> ,                        | 58 | <i>tuberosa</i> ,                    |
| 23 | <i>hypochondriacus</i> ,                 | 59 | <i>Aster</i> <i>hyssopifolius</i> ,  |
| 24 | <i>Ambrosia</i> <i>elator</i> ,          | 60 | <i>ledifolius</i> ,                  |
| 25 | <i>Amphicarpa</i> <i>monoica</i> ,       | 61 | <i>rigidus</i> ,                     |
| 26 | <i>Anagallis</i> <i>arvensis</i> ,       | 62 | <i>multiflorus</i> ,                 |
| 27 | <i>Anemone</i> <i>virginica</i> ,        | 63 | <i>paludosus</i> ,                   |
| 28 | <i>aconitifolia</i> ,                    | 64 | <i>concolor</i> ,                    |
| 29 | <i>dichotoma</i> ,                       | 65 | <i>novæ-angliæ</i> ,                 |
| 30 | <i>nemorosa</i> ,                        | 66 | <i>paniculata</i> ,                  |
| 31 | <i>uniflora</i> ,                        | 67 | <i>cordifolius</i> ,                 |
| 32 | <i>Angelica</i> <i>triquinata</i> ,      | 68 | <i>corymbosus</i> ,                  |
| 33 | <i>atropurpurea</i> ,                    | 69 | <i>pendulus</i> ,                    |
| 34 | <i>Anthemis</i> <i>cotula</i> ,          | 70 | <i>Atropa</i> <i>physaloides</i> ,   |
| 35 | <i>Apocynum</i> <i>androsæmifolium</i> , | 71 | <i>Avena</i> <i>præcox</i> ,         |
| 36 | <i>cannabinum</i> ,                      | 72 | <i>Azalea</i> <i>nudiflora</i> ,     |
| 37 | <i>Aquilegia</i> <i>canadensis</i> ,     | 73 | <i>nitida</i> ,                      |
| 38 | <i>vulgaris</i> ,                        | 74 | <i>glauca</i> ,                      |

- |   |                                       |
|---|---------------------------------------|
| 75 <i>Barbarea vulgaris</i> ,           | 123 <i>Cnicus arvensis</i> ,          |
| 76 <i>Betula excelsa</i> ,              | 124 <i>Cochlearia aquatica</i> ,      |
| 77 <i>rubra</i> ,                       | 125 <i>armoracia</i> ,                |
| 78 <i>lenta</i> ,                       | 126 <i>Collinsonia canadensis</i> ,   |
| 79 <i>glandulosa</i> ,                  | 127 <i>Conium maculatum</i> ,         |
| 80 <i>Bidens cernua</i> ,               | 128 <i>Convallaria bifolia</i> ,      |
| 81 <i>chrysanthemoides</i> ,            | 129 <i>trifolia</i> ,                 |
| 82 <i>pilosa</i> ,                      | 130 <i>racemosa</i> ,                 |
| 83 <i>Borago officinalis</i> ,          | 131 <i>multiflora</i> ,               |
| 84 <i>Bromus secalinus</i> ,            | 132 <i>canaliculata</i> ,             |
| 85 <i>Caltha palustris</i> ,            | 133 <i>Convolvulus repens</i> ,       |
| 86 <i>flabellifolia</i> ,               | 134 <i>Coptis trifolia</i> ,          |
| 87 <i>Campanula americana</i> ,         | 135 <i>Corallorhiza odontorhiza</i> , |
| 88 <i>uniflora</i> ,                    | 136 <i>Cornus canadensis</i> ,        |
| 89 <i>Cannabis sativa</i> ,             | 137 <i>florida</i> ,                  |
| 90 <i>Cardamine pennsylvaniaca</i> ,    | 138 <i>sericea</i> ,                  |
| 91 <i>virginica</i> ,                   | 139 <i>alba</i> ,                     |
| 92 <i>Carex retrorsa</i> ,              | 140 <i>sanguinea</i> ,                |
| 93 <i>stipata</i> , and many oth-       | 141 <i>alternifolia</i> ,             |
| ers, but the species not de-            | 142 <i>Corydalis cucullaria</i> ,     |
| fined.                                  | 143 <i>formosa</i> ,                  |
| 94 <i>Carpinus americana</i> ,          | 144 <i>Corylus americana</i> ,        |
| 95 <i>Carya alba</i> ,                  | 145 <i>Cratægus coccinea</i> ,        |
| 96 <i>amara</i> ,                       | 146 <i>pyrifolia</i> ,                |
| 97 <i>Cassia marilandica</i> ,          | 147 <i>punctata</i> ,                 |
| 98 <i>Castanea americana</i> ,          | 148 <i>glandulosa</i> ,               |
| 99 <i>Catalpa cordifolia</i> ,          | 149 <i>parvifolia</i> ,               |
| 100 <i>Caulophyllum thalictroides</i> , | 150 <i>Cuscuta americana</i> ,        |
| 101 <i>Celastrus scandens</i> ,         | 151 <i>Cynoglossum officinalis</i> ,  |
| 102 <i>Centaurea benedicta</i> ,        | 152 <i>amplexicaule</i> ,             |
| 103 <i>Cephalanthus occidentalis</i> ,  | 153 <i>Cypripedium parviflorum</i> ,  |
| 104 <i>Cerastium vulgatum</i> ,         | 154 <i>pubescens</i> ,                |
| 105 <i>dichotomum</i> ,                 | 155 <i>acaule</i> ,                   |
| 106 <i>hirsutum</i> ,                   | 156 <i>spectabilis</i> ,              |
| 107 <i>oblongifolium</i> ,              | 157 <i>Datura stramonium</i> ,        |
| 108 <i>Chelidonium majus</i> ,          | 158 <i>Dentaria diphylla</i> ,        |
| 109 <i>Chelone glabra</i> ,             | 159 <i>laciniata</i> ,                |
| 110 <i>Chenopodium album</i> ,          | 160 <i>maxima</i> ,                   |
| 111 <i>anthelminticum</i> ,             | 161 <i>Dipsacus sylvestris</i> ,      |
| 112 <i>glaucum</i> ,                    | 162 <i>fullonum</i> ,                 |
| 113 <i>Chimaphila maculata</i> ,        | 163 <i>Dircea palustris</i> ,         |
| 114 <i>umbellata</i> ,                  | 164 <i>Dracæna borealis</i> ,         |
| 115 <i>Chrysanthemum leucanthemum</i> , | 165 <i>Epigea repens</i> ,            |
| 116 <i>Cicuta maculata</i> ,            | 166 <i>Epilobium spicatum</i> ,       |
| 117 <i>virosa</i> ,                     | 167 <i>coloratum</i> ,                |
| 118 <i>Claytonia virginica</i> ,        | 168 <i>lineare</i> ,                  |
| 119 <i>latifolia</i> ,                  | 169 <i>alpinum</i> ,                  |
| 120 <i>Clematis virginica</i> ,         | 170 <i>Epiphegus virginianus</i> ,    |
| 121 <i>Cnicus lanceolatus</i> ,         | 171 <i>Erigeron bellidifolium</i> ,   |
| 122 <i>altissimus</i> .                 | 172 <i>philadelphicum</i> ,           |
|   | 173 <i>canadense</i> ,                |

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|-----|-----------------------------------|-----|----------------------------------|
| 174 | <i>Erysimum amphibium</i> ,       | 225 | <i>Helianthus decapetalus</i> ,  |
| 175 | <i>Erythronium americanum</i> ,   | 226 | <i>multiflorus</i> ,             |
| 176 | <i>Eupatorium sessilifolium</i> , | 227 | <i>annuus</i> ,                  |
| 177 | <i>album</i> ,                    | 228 | <i>tuberosus</i> ,               |
| 178 | <i>altissimum</i> ,               | 229 | <i>Heliopsis lævis</i> ,         |
| 179 | <i>trifoliatum</i> ,              | 230 | <i>Hemerocallis fulva</i> ,      |
| 180 | <i>purpureum</i> ,                | 231 | <i>flava</i> ,                   |
| 181 | <i>punctatum</i> ,                | 232 | <i>Hepatica triloba</i> ,        |
| 182 | <i>perfoliatum</i> ,              | 233 | <i>americana</i> ,               |
| 183 | <i>Fagus ferruginea</i> ,         | 234 | <i>Hesperis pinnatifida</i> ,    |
| 184 | <i>sylvatica</i> ,                | 235 | <i>Hippuris vulgaris</i> ,       |
| 185 | <i>Fragaria virginiana</i> ,      | 236 | <i>Hottonia palustris</i> ,      |
| 186 | <i>canadensis</i> ,               | 237 | <i>Humulus lupulus</i> ,         |
| 187 | <i>Fraxinus sambucifolius</i> ,   | 238 | <i>Hydrophyllum appendicula-</i> |
| 188 | <i>acuminata</i> ,                |     | <i>tum</i> ,                     |
| 189 | <i>juglandifolia</i> ,            | 239 | <i>canadensis</i> ,              |
| 190 | <i>Galium trifidum</i> ,          | 240 | <i>Hypericum kalmianum</i> ,     |
| 191 | <i>verum</i> ,                    | 241 | <i>perforatum</i> ,              |
| 192 | <i>tinctorum</i> ,                | 242 | <i>parviflorum</i> ,             |
| 193 | <i>trifolium</i> ,                | 243 | <i>canadense</i> ,               |
| 194 | <i>Gaultheria procumbens</i> ,    | 244 | <i>adpressum</i> ,               |
| 195 | <i>Geranium maculatum</i> ,       | 245 | <i>Hypopithys lanuginosa</i> ,   |
| 196 | <i>robertianum</i> ,              | 246 | <i>Ictodes fœtida</i> ,          |
| 197 | <i>columbianum</i> ,              | 247 | <i>Impatiens pallida</i> ,       |
| 198 | <i>Gerardia purpurea</i> ,        | 248 | <i>fulva</i> ,                   |
| 199 | <i>flava</i> ,                    | 249 | <i>Inula helenium</i> ,          |
| 200 | <i>glauc</i> ,                    | 250 | <i>Iris versicolor</i> ,         |
| 201 | <i>Glecoma hederacea</i> ,        | 251 | <i>communis</i> ,                |
| 202 | <i>Gnaphalium margaritaceum</i> , | 252 | <i>Juglans nigra</i> ,           |
| 203 | <i>polycephalum</i> ,             | 253 | <i>cinerea</i> ,                 |
| 204 | <i>plantagineum</i> ,             | 254 | <i>Krigia virginica</i> ,        |
| 205 | <i>purpureum</i> ,                | 255 | <i>Lactuca elongata</i> ,        |
| 206 | <i>Gomphrena globosa</i> ,        | 256 | <i>Laurus benzoin</i> ,          |
| 207 | <i>Goodyera pubescens</i> ,       | 257 | <i>sassafras</i> ,               |
| 208 | <i>repens</i> ,                   | 258 | <i>Leontodon taraxacum</i> ,     |
| 209 | <i>Gyromia virginica</i> ,        | 259 | <i>Leonurus cardiaca</i> ,       |
| 210 | <i>Hamamelis virginica</i> ,      | 260 | <i>Lespedeza sessilifolia</i> ,  |
| 211 | <i>Hedeoma pulegioides</i> ,      | 261 | <i>Ligusticum levisticum</i> ,   |
| 212 | <i>Hedysarum canadense</i> ,      | 262 | <i>Lilium philadelphicum</i> ,   |
| 213 | <i>ciliare</i> ,                  | 263 | <i>pennsylvanicum</i> ,          |
| 214 | <i>marilandicum</i> ,             | 264 | <i>canadense</i> ,               |
| 215 | <i>rotundifolium</i> ,            | 265 | <i>Liriodendron tulipifera</i> , |
| 216 | <i>acuminatum</i> ,               | 266 | <i>Lobelia cardinalis</i> ,      |
| 217 | <i>obtusum</i> ,                  | 267 | <i>dortmanna</i> ,               |
| 218 | <i>viridiflorum</i> ,             | 268 | <i>syphilitica</i> ,             |
| 219 | <i>humifusum</i> ,                | 269 | <i>inflata</i> ,                 |
| 220 | <i>lævigatum</i> ,                | 270 | <i>claytoniana</i> ,             |
| 221 | <i>Helianthus atrorubens</i> ,    | 271 | <i>Lonicera hirsuta</i> ,        |
| 222 | <i>divaricatus</i> ,              | 272 | <i>sempervirens</i> ,            |
| 223 | <i>frondosus</i> ,                | 273 | <i>Lupinus perennis</i> ,        |
| 224 | <i>giganteus</i> ,                | 274 | <i>Lycopus europæus</i> ,        |

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|-----|--------------------------------|-----|----------------------------------|
| 275 | <i>Lycopus virginica</i> ,     | 326 | <i>Pedicularis gladiata</i> ,    |
| 276 | <i>Lysimachia stricta</i> ,    | 327 | <i>pallida</i> ,                 |
| 277 | <i>thyrsiflora</i> ,           | 328 | <i>Phalaris americana</i> ,      |
| 278 | <i>quadrifolia</i> ,           | 329 | <i>Phlox punctata</i> ,          |
| 279 | <i>quadriflora</i> ,           | 330 | <i>maculata</i> ,                |
| 280 | <i>Malva americana</i> ,       | 331 | <i>pilosa</i> ,                  |
| 281 | <i>rotundifolia</i> ,          | 332 | <i>divaricata</i> ,              |
| 282 | <i>crispus</i> ,               | 333 | <i>Phytolacca decandria</i> ,    |
| 283 | <i>Marrubium vulgare</i> ,     | 334 | <i>Pinus balsamea</i> ,          |
| 284 | <i>Melissa officinalis</i> ,   | 335 | <i>canadensis</i> ,              |
| 285 | <i>Mentha tenuis</i> ,         | 336 | <i>alba</i> ,                    |
| 286 | <i>canadensis</i> ,            | 337 | <i>serotina</i> ,                |
| 287 | <i>borealis</i> ,              | 338 | <i>strobilus</i> ,               |
| 288 | <i>piperita</i> ,              | 339 | <i>pendula</i> ,                 |
| 289 | <i>viridis</i> ,               | 340 | <i>Plantago major</i> ,          |
| 290 | <i>Menyanthes trifolia</i> ,   | 341 | <i>virginica</i> ,               |
| 291 | <i>Mimulus ringens</i> ,       | 342 | <i>lanceolata</i> ,              |
| 292 | <i>alatus</i> ,                | 343 | <i>Platanus occidentalis</i> ,   |
| 293 | <i>Mitchella repens</i> ,      | 344 | <i>Podophyllum peltatum</i> ,    |
| 294 | <i>Mitella diphylla</i> ,      | 345 | <i>Pogonia ophioglossoides</i> , |
| 295 | <i>cordifolia</i> ,            | 346 | <i>Polygala senega</i> ,         |
| 296 | <i>Monarda didyma</i> ,        | 347 | <i>Polygonum aviculare</i> ,     |
| 297 | <i>oblongata</i> ,             | 348 | <i>tenuis</i> ,                  |
| 298 | <i>rugosa</i> ,                | 349 | <i>punctatum</i> ,               |
| 299 | <i>Monotropa uniflora</i> ,    | 350 | <i>virginicum</i> ,              |
| 300 | <i>Neottia tortilis</i> ,      | 351 | <i>pennsylvanicum</i> ,          |
| 301 | <i>cernua</i> ,                | 352 | <i>fruticans</i> ,               |
| 302 | <i>Nepeta cataria</i> ,        | 353 | <i>articulatum</i> ,             |
| 303 | <i>Nymphaea odorata</i> ,      | 354 | <i>scandens</i> ,                |
| 304 | <i>rosea</i> ,                 | 355 | <i>fagopyrum</i> ,               |
| 305 | <i>Oenothera biennis</i> ,     | 356 | <i>orientale</i> ,               |
| 306 | <i>grandiflora</i> ,           | 357 | <i>Populus tremuloides</i> ,     |
| 307 | <i>hybrida</i> ,               | 358 | <i>grandidentata</i> ,           |
| 308 | <i>Orchis spectabilis</i> ,    | 358 | <i>angulata</i> ,                |
| 309 | <i>virescens</i> ,             | 360 | <i>betulifolia</i> ,             |
| 310 | <i>hyperborea</i> ,            | 361 | <i>Portulacca oleracea</i> ,     |
| 311 | <i>Orobanche uniflora</i> ,    | 362 | <i>Potamogeton natans</i> ,      |
| 312 | <i>americana</i> ,             | 363 | <i>Potentilla canadensis</i> ,   |
| 313 | <i>Ostrya virginica</i> ,      | 364 | <i>simplex</i> ,                 |
| 314 | <i>Oxalis acetosella</i> ,     | 365 | <i>fruticosa</i> ,               |
| 315 | <i>violacea</i> ,              | 366 | <i>Prenanthes alba</i> ,         |
| 316 | <i>stricta</i> ,               | 367 | <i>Prunella vulgaris</i> ,       |
| 317 | <i>corniculata</i> ,           | 368 | <i>Prunus virginica</i> ,        |
| 318 | <i>Oxycoccus macrocarpus</i> , | 369 | <i>obovata</i> ,                 |
| 319 | <i>vulgaris</i> ,              | 370 | <i>pennsylvanica</i> ,           |
| 320 | <i>Panax trifolia</i> ,        | 371 | <i>americana</i> ,               |
| 321 | <i>quinquefolia</i> ,          | 372 | <i>Pycnanthemum incanum</i> ,    |
| 322 | <i>Papaver nudicaulis</i> ,    | 373 | <i>virginicum</i> ,              |
| 323 | <i>rhoeas</i> ,                | 374 | <i>Pyrola rotundifolia</i> ,     |
| 324 | <i>Parnassia americana</i> ,   | 375 | <i>elliptica</i> ,               |
| 325 | <i>Pastinaca sativa</i> ,      | 376 | <i>secunda</i> ,                 |

- |     |                                  |     |                                  |
|-----|----------------------------------|-----|----------------------------------|
| 377 | <i>Pyrola uniflora</i> ,         | 428 | <i>Sagittaria pubescens</i> ,    |
| 378 | <i>picta</i> ,                   | 429 | <i>acutifolia</i> ,              |
| 379 | <i>dentata</i> ,                 | 430 | <i>Salix viminalis</i> ,         |
| 380 | <i>Quercus rubra</i> ,           | 431 | <i>tristis</i> ,                 |
| 381 | <i>catesbæi</i> ,                | 432 | <i>recurvata</i> ,               |
| 382 | <i>discolor</i> ,                | 433 | <i>babylonica</i> ,              |
| 383 | <i>coccinea</i> ,                | 434 | <i>vitellina</i> ,               |
| 384 | <i>alba</i> ,                    | 435 | <i>discolor</i> ,                |
| 385 | <i>montana</i> ,                 | 436 | <i>Salvia urticifolia</i> ,      |
| 386 | <i>bicolor</i> ,                 | 437 | <i>Sambucus canadensis</i> ,     |
| 387 | <i>Queria canadensis</i> ,       | 438 | <i>pubescens</i> ,               |
| 388 | <i>Ranunculus lingua</i> ,       | 439 | <i>Sanguinaria canadensis</i> ,  |
| 389 | <i>flammulus</i> ,               | 440 | <i>Saponaria officinalis</i> ,   |
| 390 | <i>abortivus</i> ,               | 441 | <i>Sarracenia purpurea</i> ,     |
| 391 | <i>sceleratus</i> ,              | 442 | <i>Saururus cernuus</i> ,        |
| 392 | <i>bulbosus</i> ,                | 443 | <i>Scutellaria lateriflora</i> , |
| 393 | <i>hirsutus</i> ,                | 444 | <i>galericulata</i> ,            |
| 394 | <i>acris</i> ,                   | 445 | <i>parvula</i> ,                 |
| 395 | <i>hispidus</i> ,                | 446 | <i>Sedum telephium</i> ,         |
| 396 | <i>fascicularis</i> ,            | 447 | <i>Senecio hieracifolius</i> ,   |
| 397 | <i>Rhus typhinum</i> ,           | 448 | <i>elongatus</i> ,               |
| 398 | <i>glabrum</i> ,                 | 449 | <i>Silene pennsylvanica</i> ,    |
| 399 | <i>vernix</i> ,                  | 450 | <i>antirrhina</i> ,              |
| 400 | <i>viridifolium</i> ,            | 451 | <i>nocturna</i> ,                |
| 401 | <i>Ribes floridum</i> ,          | 452 | <i>Sinapis nigra</i> ,           |
| 402 | <i>triflorum</i> ,               | 453 | <i>Sison aureus</i> ,            |
| 403 | <i>menziesii</i> ,               | 454 | <i>Sisyrinchium anceps</i> ,     |
| 404 | <i>Robinia pseudo-acacia</i> ,   | 455 | <i>bermudianum</i> ,             |
| 405 | <i>Rosa parviflora</i> ,         | 456 | <i>Sium latifolium</i> ,         |
| 406 | <i>carolina</i> ,                | 457 | <i>lineare</i> ,                 |
| 407 | <i>rubiginosa</i> ,              | 458 | <i>Smilax rotundifolia</i> ,     |
| 408 | <i>rubifolia</i> ,               | 459 | <i>peduncularis</i> ,            |
| 409 | <i>Rubus idæus</i> ,             | 460 | <i>Smyrnum cordatum</i> ,        |
| 410 | <i>villosus</i> ,                | 461 | <i>Solanum dulcamara</i> ,       |
| 411 | <i>strigosus</i> ,               | 462 | <i>nigrum</i> ,                  |
| 412 | <i>canadensis</i> ,              | 463 | <i>carolinense</i> ,             |
| 413 | <i>occidentalis</i> ,            | 464 | <i>Solidago canadensis</i> ,     |
| 414 | <i>trivialis</i> ,               | 465 | <i>procera</i> ,                 |
| 415 | <i>odoratus</i> ,                | 466 | <i>gigantea</i> ,                |
| 416 | <i>sempervirens</i> ,            | 467 | <i>reflexa</i> ,                 |
| 417 | <i>Rudbeckia laciniata</i> ,     | 468 | <i>lateriflora</i> ,             |
| 418 | <i>Rumex crispus</i> ,           | 469 | <i>recurvata</i> ,               |
| 419 | <i>sanguineus</i> ,              | 470 | <i>scabra</i> ,                  |
| 420 | <i>obtusifolius</i> ,            | 471 | <i>virgata</i> ,                 |
| 421 | <i>aquaticus</i> ,               | 472 | <i>stricta</i> ,                 |
| 422 | <i>acetosellus</i> ,             | 473 | <i>tenuifolia</i> ,              |
| 423 | <i>patientia</i> ,               | 474 | <i>pulverula</i> ,               |
| 424 | <i>acetosus</i> ,                | 475 | <i>flexicaulis</i> ,             |
| 425 | <i>Sagittaria sagittifolia</i> , | 476 | <i>Sonchus leucopheus</i> ,      |
| 426 | <i>obtusa</i> ,                  | 477 | <i>alpinus</i> ,                 |
| 427 | <i>hastata</i> ,                 | 478 | <i>Sorbus americana</i> ,        |

479	<i>Sorbus microcarpa</i> ,	522	<i>Uvularia flava</i> ,
480	<i>Spiræa salicifolia</i> ,	523	<i>sessilifolia</i> ,
481	<i>alba</i> ,	524	<i>Vaccinium frondosum</i> ,
482	<i>tomentosa</i> ,	525	<i>dumosum</i> ,
483	<i>Stachys aspera</i> ,	526	<i>resinosum</i> ,
484	<i>sylvatica</i> ,	527	<i>corymbosum</i> ,
485	<i>Stellaria media</i> ,	528	<i>tenellum</i> ,
486	<i>Symphytum officinalis</i> ,	529	<i>ovatum</i> ,
487	<i>Tanacetum vulgare</i> ,	530	<i>Veratrum viride</i> ,
488	<i>huronensis</i> ,	531	<i>Verbascum thapsus</i> ,
489	<i>Taxus canadensis</i> ,	532	<i>Verbena hastata</i> ,
490	<i>Thalictrum dioicum</i> ,	533	<i>urticifolia</i> ,
491	<i>revolutum</i> ,	534	<i>angustifolia</i> ,
492	<i>purpurascens</i> ,	535	<i>Veronica serpyllifolia</i> ,
493	<i>Thlapsi campestris</i> ,	536	<i>arvensis</i> ,
494	<i>bursa-pastoris</i> ,	537	<i>beccabunga</i> ,
495	<i>Tilia glabra</i> ,	538	<i>alpina</i> ,
496	<i>laxiflora</i> ,	539	<i>anagallis</i> ,
497	<i>Trientalis americana</i> ,	540	<i>agrestis</i> ,
498	<i>Trifolium repens</i> ,	541	<i>Viburnum lentago</i> ,
499	<i>pratense</i> ,	542	<i>nudum</i> ,
500	<i>arvense</i> ,	543	<i>lantanoides</i> ,
501	<i>Trillium sessile</i> ,	544	<i>acerifolium</i> ,
502	<i>erythrocarpum</i> ,	545	<i>oxycoccus</i> ,
503	<i>pendulum</i> ,	546	<i>Vinca minor</i> ,
504	<i>erectum</i> ,	547	<i>Viola lanceolata</i> ,
505	<i>purpureum</i> ,	548	<i>palmata</i> ,
506	<i>album</i> ,	549	<i>rotundifolia</i> ,
507	<i>Typha latifolia</i> ,	550	<i>amœna</i> ,
508	<i>angustifolia</i> ,	551	<i>blanda</i> ,
509	<i>Ulmus americana</i> ,	552	<i>canadensis</i> ,
510	<i>fulva</i> ,	553	<i>pubescens</i> ,
511	<i>nemoralis</i> ,	554	<i>striata</i> ,
512	<i>Uraspermum claytoni</i> ,	555	<i>debilis</i> ,
513	<i>hirsutum</i> ,	556	<i>papilionacea</i> ,
514	<i>canadense</i> ,	557	<i>Vitis vulpina</i> ,
515	<i>Urtica pumila</i> ,	558	<i>labrusca</i> ,
516	<i>urens</i> ,	559	<i>Xylosteum ciliatum</i> ,
517	<i>dioica</i> ,	560	<i>solonis</i> ,
518	<i>canadensis</i> ,	561	<i>Xanthoxylum fraxineum</i> ,
519	<i>capitata</i> ,	562	<i>Xyris carolina</i> ,
520	<i>Urticularia macrorhiza</i> ,	563	<i>Zizania aquatica</i> .
521	<i>Uvularia perfoliata</i> ,		

It is not supposed that the preceding is a complete list. The species of the *Aster*, *Carex*, *Solidago* and *Viola*, are numerous; and all of the species, it is presumed, are not enumerated. There is not in this list any of the class *Cryptogamia*; neither any of the grasses, or of the cultivated exotics.

The above Catalogue has been prepared by GEORGE W. BRADFORD, M. D. and will be continued the next year.





## FIVE PLACES.

EMY.

At

Albany, . . . to the Mohawk.  
Auburn, . . . above the canal at Port-Byron  
Bridgeport  
Buffalo, . . .  
Cambridge  
Canajoharie  
Canandaigua  
Cayuga, . . . surface of the lake.  
Cherry-Valley, . . . from those of the Mohawk.  
Clinton, . . .  
Cortland,  
Delaware,  
Dutchess  
Erasmus Long-Island.  
Fairfield, . . . Herkimer.  
Franklin,  
Fredonia, . . . the highlands of Chautauque are distant 7 miles.  
Gouverneur  
Hamilton,  
Hartwick  
Hudson,  
Johnstown  
Ithaca, . . .  
Kinderhook  
Kingston,  
Lansingburgh  
Lewiston  
Lowville  
Middleburgh, . . . to 300 feet above the canal at Rochester.  
Montgomery  
Mount-Pleasant  
North-Saratoga, . . . above the level of the sea.  
Newburgh, . . . river.  
Oxford, . . .  
Plattsburgh  
Pompey, . . . at Salina.  
Redhook  
St. Lawrence  
Rochester  
Union, . . .  
Union-High  
Utica, . . . above the canal.  
Washington  
Somerset

They will confer a favor by stating in their next annual report what



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**ABSTRACTS**  
**OF**  
**METEOROLOGICAL OBSERVATIONS**  
**MADE AT THE CITY OF ALBANY,**  
**AND**  
**CALCULATIONS TENDING TO ESTABLISH ITS MEAN TEM-**  
**PERATURE.**  
**By T. ROMEYN BECK, M. D.**  
**Communicated to the Albany Institute, February 7, 1833.**

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## ABSTRACT

### *Of Meteorological Observations, &c.*

Several years have now elapsed since a regular series of meteorological observations was commenced in this place. I have supposed that it might be interesting to collect these, ascertain their mean results, and notice also the variations in each year.

The series is not, however, perfectly complete, being made at considerable intervals from each other. The earliest is the observations recorded by our venerable first vice-president, Simeon De Witt, for the years 1795 and 1796. These are to be found in the *Transactions of the Society for the promotion of Agriculture, the Arts, &c.* vol. 1, p. 287. They were made, as I am informed by him, in Dock (now Dean) street.

Subsequent to this, tables were successively kept by the late Dr. Low and Dr. Eights. Those of the former are either unfortunately lost, or if preserved, are too imperfect to be available. Dr. Eights' comprise the years 1813 and 1814, and have been published in the 3d vol. of the *Transactions of the Society for the promotion of Useful Arts*. The Institute is also in possession, by donation from Dr. Eights, of the original M.S. tables. I have carefully examined these, and the results have been accurately ascertained for this communication. They were made three times a day, viz. at 7 A. M., 3 P. M. and 9 P. M.

The observations for 1813 were made, as I am informed by Dr. Eights, at the north side of Steuben-street, near Middle-Alley; those for 1814 in North Pearl-street, in the house south of and adjoining Judge Woodworth's.

From 1820 to 1832 inclusive, I have kept meteorological tables, at first, at the request of the corporation of the city, and latterly, under the direction of the Regents of the University. Having been noticed at the Academy, it of course will be observed that the ground here is many feet higher, and is also more exposed to the north and west winds, than in either of the former localities.\*

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\* The Academy is one hundred and thirty feet above tide waters.

With this preamble, I propose in the first place to give the tabular results of each of the above seventeen years, and then to present such comparative views of the whole number as may appear important.

TABLE I.  
*Meteorological Observations for 1795 and 1796, by SIMEON DE WITT.*

1795.	Mean temperature of each month.	Highest degree.	Lowest degree.	Greatest monthly variation.	1796.	Mean temperature of each month.	Highest degree.	Lowest degree.	Greatest monthly variation.		Mean temperature of each month.	Highest degree.	Lowest degree.	Greatest monthly variation.
January,.....	24.50	45	6	51	January,.....	25.50	49	-10	59		25.50	49	-10	59
February,.....	27.00	46	-10	56	February,.....	26.00	47	-	51		26.00	47	-	51
March,.....	37.00	66	20	46	March,.....	31.00	55	4	51		31.00	55	4	51
April,.....	49.50	80	26	54	April,.....	47.50	84	24	60		47.50	84	24	60
May,.....	62.60	85	35	50	May,.....	56.50	77	32	45		56.50	77	32	45
June,.....	64.00	90	51	39	June,.....	68.50	91	45	46		68.50	91	45	46
July,.....	74.50	96	54	42	July,.....	72.50	92	54	38		72.50	92	54	38
August,.....	74.50	94	49	45	August,.....	68.50	94	41	53		68.50	94	41	53
September,.....	63.00	91	43	48	September,.....	62.00	86	37	49		62.00	86	37	49
October,.....	51.50	77	25	52	October,.....	48.00	66	27	39		48.00	66	27	39
November,.....	37.50	66	18	47	November,.....	.....	.....	13	.....		.....	.....	13	.....
December,.....	34.00	50	11	39	December,.....	20.00	33	-20	52		20.00	33	-20	52

Mr. De Witt states that the above results were deduced from the state of the thermometer at its two extremes, within each twenty-four hours.





TABLE III.  
*Meteorological Observations for 1814, by JONATHAN EIGHTS, M. D.*

TABLE IV.  
*Meteorological Journal for the year 1820.*

TABLE V.  
*Meteorological Journal for the year 1821.*

1 2 3 4 5 6 7 8 9 10 11 12

TABLE VI.  
*Meteorological Journal for the year 1892.*

TABLE V.  
*Meteorological Journal for the year 1821.*

	THERMOMETER.								WEATHER, (NO. OF DAYS.)					WINDS, (NO. OF DAYS.)								Prevailing wind.
	Mean temperature at 7 A. M.	Mean temperature at 2 P. M.	Mean temperature at 9 P. M.	Mean of all the observations.	Highest.	Lowest.	Greatest monthly range.	Greatest daily range.	Fair.	Cloudy.	Snow.	Rain.	Rain & Snow.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	
January,.....	12.90	21.77	17.74	17.47	48	-14	62	20	11	20	8	1	...	4	...	...	3	10	2.5	5.5	6	S.
February,.....	26.14	34.35	30.10	30.20	45	12	33	19	7.5	20.5	8	1	...	1.5	.5	...	5	5.5	1	10	4.5	W.
March,.....	26.93	38.43	32.22	32.54	54	9	45	24	14	17	6	5	2	2	...	...	2.5	8.5	2.5	13	2.5	W.
April,.....	37.83	50.30	42.16	43.43	71	22	49	27	14.5	16.5	8	7	...	2	1	...	4.5	8.5	.5	9.5	4	W.
May,.....	53.16	67.80	53.25	59.74	77	43	34	26	15	16	...	12	...	3	1.5	1.5	6	5.5	.5	7.5	5.5	W.
June,.....	64.50	78.26	69.33	70.73	90	51	39	27	19	11	...	10	...	4	3	.5	9	5.5	...	3.5	4.5	SE.
July,.....	64.54	79.26	70.53	71.46	93	54	39	23	16.5	14.5	...	8	...	3.5	...	1	4.5	9	1	8.5	3.5	S.
August,.....	65.54	81.74	71.26	72.84	93	55	38	28	20	11	...	7	...	8	.5	2	6.5	3	...	10	1	W.
September,.....	59.53	71.40	63.06	64.66	83	42	41	24	16	14	...	13	...	2	...	.5	5	8.5	3	7.5	3.5	S.
October,.....	43.45	57.06	49.16	49.55	71	28	43	25	21.5	9.5	...	9	...	1	1	...	5.5	8	2	8	5.5	S&W.
November,.....	35.86	42.50	37.53	38.63	55	19	36	17	6.5	23.5	4	10	...	.5	...	1	4	4	4	12.5	4	W.
December,.....	21.29	31.32	24.93	25.85	43	-2	45	18	19	12	6	...	1	2	...	...	3	6.5	4	3	11.5	NW.

TABLE VI.  
*Meteorological Journal for the year 1892.*

TABLE VII.

*Meteorological Journal for the year 1893.*

	THERMOMETER.		WEATHER, (NO. OF DAYS.)							WINDS, (NO. OF DAYS)							Prevailing wind.
	Highest.	Lowest.	Fair.	Cloudy.	Snow.	Rain.	Rain & Snow.	Rain & Fog.		North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.
January, . . . . .	40	22	25	6	6	3	...	...	5.5	2	1.5	1.5	2	7.5	...	6.5	7
February, . . . . .	39	26	14.5	18.5	10	5	...	...	2.5	3	1.5	...	3	2.5	1	8.5	6
March, . . . . .	61	4	13	18	4	7	2	...	2.5	5	...	...	5	7	...	5.5	7.5
April, . . . . .	68	26	13.5	16.5	...	7	...	1.11	2.5	4	...	...	4	3.5	...	5.5	6
May, . . . . .	86	36	14	17	2	9	...	3.23	2.5	5	...	...	5	8	...	5	5
June, . . . . .	96	47	23	7	...	6	...	9.73	3.5	10.5	...	...	10.5	4	...	11	6
July, . . . . .	94	59	20	11	...	10	...	5.37	1.5	4	1	...	12.5	5	...	4.5	6
August, . . . . .	92	54	20	11	...	7	...	2.87	...	...	1	...	11.5	4	...	5	6
September, . . . . .	88	50	16	14	1	4	...	3.06	3	...	...	...	7.5	4	...	5	5
October, . . . . .	74	30	14.5	16.5	1	6	1	4.12	2.5	...	...	...	11	3.5	...	7.5	4.5
November, . . . . .	48	16	13.5	16.5	2	4	...	1.13	6.5	1	...	...	6.5	4.5	...	6.5	4.5
December, . . . . .	47	13	11.5	19.5	7	5	...	...	5.5	3	...	...	8	5	...	6.5	5

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TABLE VIII.

*Meteorological Journal for the year 1824.*



TABLE IX.

Meteorological Journal for the year 1825.

	THERMOMETER.				WEATHER, (NO. OF DAYS.)								WINDS, (NO. OF DAYS.)								Prevailing wind.			
	Mean temperature at 7 A. M.	Mean temperature at 2 P. M.	Mean temperature at 9 P. M.	Mean of all the observations.	Highest.	Lowest.	Greatest monthly range.	Greatest daily range.	Clear.	Cloudy.	Snow.	Rain.	Rain & Snow.	Rain gauge.	North.	N. East.	East.	S. East.	South.	S. West.		West.	N. West.	
January,.....	22.51	30.06	25.16	25.91	40	6	34	25	11.5	19.5	3	2	...	...	5.5	1	...	3	9	3	3.5	6	6	S. N&Nw.
February,.....	23.35	32.17	27.64	27.72	44	3	41	21	10	18	4	3	1	...	6	2	...	2.5	5.5	2.5	3.5	6	6	N.
March,.....	33.80	45.78	38.74	39.44	63	25	38	23	17	14	1	3	2	...	9.5	1	...	4	2	2	6	6	6	N.
April,.....	42.13	57.87	48.99	49.63	72	29	43	30	16.5	13.5	...	5	...	1.21	8	.5	1	2.5	6	3	4.5	5.5	5.5	S.
May,.....	52.74	70.19	59.32	60.75	82	37	45	23	22.5	8.5	...	4	...	5.73	5.5	3.5	...	1	11.5	3	5	3.5	3.5	S.
June,.....	66.80	80.10	71.53	72.64	95	57	41	24	21.5	8.5	...	7	...	1.13	8.5	...	...	5	8.5	4.5	5	3.5	3.5	S.
July,.....	69.19	85.42	76.61	77.07	98	60	36	24	24	7	...	6	...	6.43	.5	1.5	...	6.5	7	6	4.5	4.5	4.5	S.
August,.....	65.03	79.74	71.83	72.05	89	55	34	26	22.5	8.5	...	9	...	6.43	5	2.5	...	4.5	6.5	1.5	2	9	9	NW.
September,...	54.63	67.43	59.06	60.37	77	41	36	24	15	15	...	6	...	0.97	2.5	2	...	4.5	5.5	3.5	5.5	5.5	5.5	S.
October,.....	43.03	56.41	51.93	52.79	79	29	50	23	17	14	...	6	...	4.91	4	1.5	...	6	5.5	1.5	3.5	6	6	S.
November,...	32.50	43.29	35.83	37.17	58	17	41	22	17	13	2	3	...	1.43	4.5	3.5	...	2.5	7.5	3.5	3	5.5	5.5	S.W.
December,....	27.29	33.35	29.64	30.09	45	-6	54	20	14.5	16.5	3	3	1	2.31	4.5	...	...	6	6	7	4	3.5	3.5	S.W.

**TABLE X.**  
*Meteorological Journal for the year 1826.*

## TABLE XI.

*Meteorological Journal for the year 1897.*

TABLE XII.

Meteorological Journal for the year 1828.

	THERMOMETER.							WEATHER, (NO. OF DAYS.)						WINDS, (NO. OF DAYS.)							Prevailing wind.		
	Mean temperature at 7 A. M.	Mean temperature at 2 P. M.	Mean temperature at 9 P. M.	Mean of all the observations.	Highest.	Lowest.	Greatest monthly range.	Greatest daily range.	Fair.	Cloudy.	Rain.	Snow.	Rain & Snow.	Rain gauge.	North.	N. East.	East.	S. East.	South.	S. West.		West.	N. West.
January, . . .	27.58	36.06	29.12	29.92	45	0	45	...	12	19	4	6	...	2.25	5	1	...	3	9	4.5	5.5	3	3.5
February, . . .	31.72	38.33	34.34	34.81	55	18	37	...	15	14	6	4	...	2.53	8	...	1	2	11.5	2	6	...	3.5
March, . . .	33.58	44.48	37.67	38.58	68	19	49	...	19.5	11.5	5	...	3	1.94	8.5	1	1	11	6	2	4	...	7.5
April, . . .	39.40	51.90	43.53	44.84	62	31	31	...	19	11	10	...	2	2.52	9.5	...	1	1	10.5	4	5	...	3.5
May, . . .	55.28	67.83	59.64	60.87	78	46	32	...	18.5	12.5	11	...	...	4.48	1.5	...	5	4.5	18.5	2.5	6	...	5.5
June, . . .	67.68	79.77	72.14	73.19	88	54	34	...	22	8	16	...	...	3.87	2.5	...	5	3	16	2	2.5	...	5
July, . . .	67.16	79.06	67.87	71.86	95	59	36	...	19.5	11.5	17	...	...	5.40	1	1	...	1.5	16	2	7	...	2.5
August, . . .	65.03	85.42	69.61	73.35	98	54	44	...	26	5	4	...	...	0.88	.5	...	5	2.5	11.5	1.5	3	...	4.5
September, . . .	57.10	70.80	59.17	62.19	89	47	42	...	16	14	11	...	...	8.08	2	2	1.5	1	11	3	2.5	...	8.5
October, . . .	41.51	58.38	46.03	48.64	75	28	52	...	22	9	6	...	...	1.56	2	...	...	...	12.5	2	4	...	9
November, . . .	37.37	44.97	38.70	40.34	64	18	46	...	18	17	19	3	1	4.91	2	...	1	...	8.5	2.5	10	...	10
December, . . .	30.77	40.19	32.74	34.57	54	5	49	...	20.5	10.5	8	...	...	0.24	3	...	...	...	14	1.5	10	...	1.5

**TABLE XIII.**  
*Meteorological Journal for the year 1899.*

In 1825, the Regents of the University required meteorological observations to be made in each of the Academies under their care. These were directed to be taken between daylight and sunrise, as showing the lowest degree of temperature in the twenty-four hours; between 2 and 4 P. M., or in other words, at 3 P. M., as the warmest point, and every evening an hour after sunset. The mean was to be ascertained by adding to the morning's observation twice the afternoon's and evening's and that of the next morning. The sum of these four was to be divided by six, and the result placed in the mean column. The mean of each half month and month was also to be calculated.

I continued both these series of observations (at 7 A. M., 2 P. M. and 9 P. M., and according to the mode directed by the Regents,) for the years 1826, 1827, 1828 and 1829, in order to ascertain the discrepancies, if any, that might exist between them. After the last named year, finding both too laborious, I continued only that which was directed by the Regents. The following tables show the results obtained.

TABLE XIV.  
*Meteorological Journal for 1890.*

TABLE XV.  
*Meteorological Journal for the year 1831.*



## TABLE XVI.

*Meteorological Journal for the year 1832.*

In comparing the previous tables, it may be well to premise the remark, that this city is situated in north latitude  $42^{\circ}39$  and west longitude  $73^{\circ}44$ .

The following schedule (table XVII.) brings together the respective observations, so far as they can be compared with each other. As I have already explained the cause of the partial vacancies in the years in 1830, '31 and '32, I may here state that table XVIII. exhibits the variations noticed in pursuing the double sets of observations made in 1826, '27, '28 and '29. It will be seen that on the annual mean they hardly differ half a degree. Indeed during three of the years the difference is less.

TABLE XVII.  
*Comparative view of the Annual Temperature, &c.\**

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\* It will be well again to mention that Dr. Eights' mid-day observations were at 2 P. M. and mine at 2 P. M.

TABLE XVIII.  
*Comparison of the results of double sets of observations.*

	1826.		1827.		1828.		1829.	
	City observa- tions.	Regents obser- vations.	City.	Regents.	City.	Regents.	City.	Regents.
January,.....	27.74	28.25	17.16	17.40	29.92	30.24	22.97	23.47
February,.....	29.79	30.57	27.10	27.49	34.91	35.24	19.98	19.96
March,.....	37.75	38.60	36.39	37.47	38.58	39.61	32.57	32.92
April,.....	44.40	45.54	50.74	51.48	44.94	45.95	45.05	48.10
May,.....	66.49	67.01	59.40	59.70	60.87	61.46	64.17	64.45
June,.....	70.50	70.45	67.82	68.17	73.19	74.04	68.08	68.12
July,.....	73.11	73.66	72.74	73.29	71.96	71.11	67.28	68.57
August,.....	71.79	72.33	69.51	70.09	73.85	72.92	69.71	68.97
September,.....	64.00	64.98	61.62	62.35	62.19	62.17	57.00	57.04
October,.....	51.92	52.49	51.48	51.77	48.64	48.50	51.28	51.27
November,.....	39.74	39.88	33.87	34.19	40.34	39.77	39.52	39.19
December,.....	28.93	29.07	29.77	30.02	34.57	34.52	26.95	26.45
Annual mean temp.....	50.51	51.07	48.13	48.62	51.06	51.96	48.12	48.20

Humboldt, in his interesting and most valuable memoir on “*Isothermal Lines\* and the Distribution of Heat over the Globe,*”† when remarking on the number of daily observations best calculated to ascertain the mean temperature, says, “Experience proves that the mean temperatures of the year, obtained by *two* or *three* observations, do not differ sensibly, if the intermediate observation is sufficiently distant (four or five hours) from the observation of maximum and minimum.” I was desirous of verifying the correctness of this remark by the preceding table, and have been gratified with the result, which is as follows.

TABLE XIX.

Mean temperature, deduced from observations at 7 and 2, or 7 and 3.		Mean temperature, deduced from observations at 7, 2 and 9, or 7, 3 and 9.	
1813	48.34	.....	48.35
1814	49.88	.....	49.84
1820	49.77	.....	48.98
1821	48.52	.....	48.09
1822	49.92	.....	49.18
1823	47.75	.....	47.31
1824	48.48	.....	47.88
1825	50.88	.....	50.46
1826	50.92	.....	50.51
1827	48.76	.....	48.13
1828	51.97	.....	51.06
Total, .....	545.19	.....	539.79
Annual average, .	45.43	.....	44.98

The results deduceable from table XVII. may here be given.

MEAN TEMPERATURE OF ALBANY, } 49°04.  
from the observations of 17 years, }  
Highest point of the thermometer, do. 100° (in 1820.)  
Lowest do do do —20° (in 1796.)  
Greatest range, 120°

\* *Isothermal.* Lines of equal heat in various parts of the globe.

† Edinburgh Philosophical Journal, vols. 3 and 4. He recommends (vol. 3, p. 18,) that in taking means in order to find the quantity of heat divided between the day and the night, we must couple the maximum of one day with the minimum of the day following. The directions of the Regents of the University would seem to be in conformity to this advice.

WEATHER, as observed for 15 years,

Fair days, 2997½.

Cloudy days, 2481½; being an annual average of nearly 200 fair days.

Rain. No. of days on which it fell, 1194. Annual av. 79 days.

Snow. do do do 329. do 22 do

Rain & Snow. do do 63. do 4 do

RAIN GAGE for seven years, 284.47 inches.

Annual average, 40.64 inches.

WINDS, for 15 years.

	Total.	Annual average.
North, .....	560	37½
Northeast, .....	187	12½
East, .....	50	3½
Southeast, .....	742½	49½
South, .....	1509½	100½
Southwest, .....	340	22½
West, .....	1040	69½
Northwest, .....	1050	70
	5479	365

The following may be added as illustrative of the variety of the seasons.

TABLE XX.

Years.	First Thunder Storm.	First fall of Snow.
1813	March 18	October 19
1814	April 30	November 3
1820	April 11	October 25
1821	May 29	November 19
1822*	May 1, with hail.	November 1
1823†	.....	November 18
1824	.....	October 31
1825	March 17	November 20
1826	March 20	November 22
1827	.....	November 7
1828	March 24	November 12
1829	April 19	November 11
1830	May 1	November 29
1831	March 31	November 22
1832	March 12	November 13

\* On the 21st of February, 1822, there was a thunder storm in the evening.

† October 25, 1823, a fall of rain commenced early in the morning, which at 11 A. M. changed to heavy snow, and this continued until 4 P. M. There were several flashes of lightning, with severe thunder, during the snow storm.

TABLE XXI.

Years.	Coldest day.*	Degree.	Warmest day.	Degree.
1795	February 27	—10	July 12	96
1796	December 24	—20	August 28	94
1813	Jan. 27 & Feb. 3	— 2	September 13	87
1814	Jan. 4 & Feb. 5	— 6	August 11	86
1820	February 2&5	— 5	July† 9	100
1821	January 25	—14	July 31 & Aug. 15	93
1822	January 14	—14	July 1	90
1823	February 7	— 6	July 10	94
1824	February 3	— 3	June 29	89
1825	December 13	— 6	June 12	98
1826	February 1	—12	May 15	92
1827	January 21	—18	August 6	90
1828	January 24	0	August 31	98
1829	January 3	—10	May 28	90
1830	February 6	—12	July 21	97
1831	January 21	—10	June 1	94
1832	February 25	—11	June 15 & July 7	91

I add to these, as an important and necessary supplement, the periods of the opening and closing of the river in each year, so far at least as I have been enabled to obtain them. I copy them principally from an article which appeared some time since in the "*New-York Daily Advertiser*." Those marked \* are derived from authentic records, or my own observations; (some of the last years are confirmed by extracts from the diary of my friend, Jas. Stevenson, Esq.)

\* All these were of course noticed at the morning's observations, while those of the heat at the mid-day one.

† A shower followed a short time after 2, and at its conclusion the thermometer was at 80°, with a west wind. The 22d of June in this year (1820) appears to have been very generally warm. It was 94° at Albany; at Hudson, (N. Y.) 100; at Hartford (Conn.) 98°; at Portland 94°; at Newburyport 101°, and at Quebec 98°.

TABLE XXII.

Winters.	River closed or obstructed by ice.	River open or free of ice.	No. days closed.
1785—86		*March 23, 1786	
1789—90	February 3, 1790		
1790—91	December 8, 1790		
1791—92	December 8, 1791		
1792—93	Decem. 12, 1792		
1793—94	Decem, 26, 1793	*March 17, 1794	81 days.
1794—95	January 12, 1795		
1795—96	January 23, 1796		
1796—97	Novem. 28, 1796		
1797—98	Novem. 26, 1797		
1798—99	Novem. 23, 1798		
1799—1800	January 6, 1800		
1800—01	January 3, 1801		
1801—02	February 3, 1802		
1802—03	Decem. 16, 1802		
1803—04	January 12, 1804		
1804—05	Decem. 13, 1804		
1805—06	January 9, 1806	February 23, 1806	45 days.
1806—07	Decem. 11, 1806		
1807—08	January 4, 1808		
1808—09	Decem. 9, 1808		
1809—10	January 19, 1810		
1810—11	Decem. 14, 1810		
1811—12	Decem. 20, 1811		
1812—13	Decem. 21, 1812	*March 13, 1813	83 days.
†1813—14	Decem. 22, 1813		
1814—15	Decem. 10, 1814		
1815—16	Decem. 2, 1815		
†1816—17	Decem. 18, 1816		
§1817—18	Decem. 7, 1817	March 25, 1818	108 days.
1818—19	Decem. 14, 1818	April 3, 1819	110 days.
1819—20	Decem. 13, 1819	March 25, 1820	102 days.
1820—21	Novem. 13, 1820	March 15, 1821	123 days.
1821—22	Decem. 13, 1821	March 15, 1822	92 days.
1822—23	Decem. 24, 1822	March 24, 1823	90 days.
¶1823—24	Decem. 16, 1823	March 3, 1824	78 days.
1824—25	January 5, 1825	March 6, 1825	60 days.
1825—26	Decem. 13, 1825	*Feb. 26, 1826	75 days.
1826—27	Decem. 24, 1826	*March 20, 1827	86 days.
**1827—28	*Novem. 25, 1827	*Feb. 8, 1828	About 50 do.
1828—29	*Decem. 23, 1828	*April 1, 1829	100 days.
1829—30	*January 11, 1830	*March 15, 1830	63 days.
††1830—31	*Decem. 23, 1830	*March 15, 1831	82 days.
1831—32	*Decem. 5, 1831	*March 25, 1832	111 days.
‡1832—33	*Decem. 21, 1832	*March 21, 1833	83 days.

[For notes, see next page.]



It is interesting to inquire how far the results thus obtained accord with previous general views on the subject. These, as I have already intimated, are no where more fully or satisfactorily elucidated, than in the memoir of Humboldt. I propose, in the conclusion of this paper, to test some of his positions by the present observations. If they do not agree with his deductions, there is doubtless inaccuracy in some one or other respect, while if they on the whole correspond, a useful addition will be made to the mass of facts in this yet imperfect science.

He remarks that the Isothermal line of 50° in N. America passes near Boston, and founds this apparently in part on observations made at Ipswich and Cambridge, (Mass.) He also illustrates his position, that there is a greater variety between the seasons in the new than in the old world, by references to the latter place; and again, he states the mean temperature of America, east of the Alleganies, at various degrees of latitude, either by deductions from "direct observations, or by interpolations between a great number of observations made in neighboring places and situated under the same meridian."\* Let us group these together and then compare them with the present tables.

Places.	N. Lat.	W. Long.	Mean tem.	Mean tem. winter.	Mean tem. summer.
Boston,.....	42.30	70.59	50.00		
Ipswich,.....	42.38	.....	50.00		
† Cambridge,.....	42.25	71.03	50.04	34.00	70.05
America, east of the Alleganies,.....	42.30	71.10	.....	30.02	73.40

\* Edinburgh Philosophical Journal, vol. 3, p. 257, 258, 265.

† In another part of his memoir (vol. 5, p. 83,) he gives the mean temperature of Cambridge, from two years' observations at Boston, as 50.96; winter 33.98; summer, 70.70.

‡ During this winter the Peripneumonia typhodes prevailed as an epidemic in Albany.

‡ It opened again Dec. 14, and closed December 21st.

§ This winter was long and intensely cold. On the 3d of March, 1818, the ice moved in a body downwards for some distance, and there remained stationary. The river was not clear until March 25th.

|| The river closed on the 18th, opened on the 20th, and finally closed December 1. This was one of the four winters during a century, in which the Hudson between Powles'-Hook and New-York was crossed on the ice. The other three being 1740-41, 1764-65 and 1779-80.

¶ Jan. 11, 1824. The river was clear of ice and remained so for several days.

\*\* The river opened and closed repeatedly during this winter; Dec. 21 it closed a second time. 1823, Feb. 9. Wild ducks and pigeons flew over the city.—J. Stevenson.

†† Opened in consequence of heavy rains, and closed again on the 10th January, 1831.

‡‡ Opened again January 3; closed again January 11.

ALBANY.—TABLE XXIII.

Years.	Spring. Mean temp.	Summer. Mean temp.	Autumn. Mean temp.	Winter. Mean temp.
1795	49.50	71.00	50.66	28.16
1796	45.00	69.83		
1813	45.70	70.61	51.70	24.90
1814	48.59	70.71	52.83	
1820	47.74	73.58	49.56	23.70
1821	45.23	71.67	50.94	22.99
1822	48.62	71.24	53.03	23.82
1823	46.33	71.56	46.98	28.04
1824	44.88	67.87	49.87	28.69
1825	49.94	73.92	50.11	29.18
1826	49.54	71.80	51.88	24.39
1827	48.84	70.02	48.99	31.50
1828	48.13	72.63	50.39	25.84
1829	48.26	68.34	49.26	28.77
1830	51.11	70.12	53.62	25.88
1831	51.78	72.59	51.91	21.54
1832	45.62	69.65	51.31	
Annual ave.	47.93	71.00	50.81	26.24

Other observations made by our author need but a glance at the tables for their verification. Among these I may specify the following: “The increase of vernal temperature is great (from 14°4 or 16°2 in the space of a month,) and equally prolonged, wherever the division of the annual heat between the seasons is very unequal, as in the north of Europe and in the temperature of the United States.” And again, “In all places, whose mean temperature is below 62°6, the revival of nature takes place in spring in that month whose mean temperature reaches 42°8 or 46°4. When a month rises to 41°9 the peach flowers.

46 8 the plum flowers.

51 8 the birch tree (*Betula Alba*) pushes out its leaves.\*

On one point I have found a difference. Baron Humboldt, in opposition to Kirwan, and from observations deduced from numerous European tables, asserts that the mean temperature of October approaches nearer to that of the whole year than the tempera-

\* Edinburgh Phil. Journal, vol. 4, p. 30, 32.

ture of April, as was asserted by Kirwan. The following result has been here obtained.

TABLE XXIV.

	Mean temp. of the year.	Mean temp. of October.	Mean temp. of April.
1795	50.00	51.50	49.50
1796	48.00	48.00	47.50
1813	48.35	49.55	49.16
1814	49.84	53.11	48.87
1820	48.98	48.42	50.85
1821	48.09	49.55	43.43
1822	49.18	51.49	46.51
1823	47.31	47.15	49.11
1824	47.88	50.26	46.76
1825	50.46	52.79	49.63
1826	50.51	51.92	44.40
1827	48.13	51.48	50.74
1828	51.06	48.64	44.94
1829	48.12	51.28	48.05
1830	50.65	52.39	56.02
1831	49.15	52.61	52.08
1832	48.10	50.71	44.93
Average, . . . . .	49.04	50.63	48.38

I have naturally been anxious to ascertain how far the result of these observations corresponds with the formula of Dr. Brewster, and on this point have been favored with the following observations by my colleague, Professor Ten Eyck.

“ Dr. Brewster’s formula for finding the mean temperature of a place is (mean temp.= $86.3^{\circ} \sin D - 3\frac{1}{2}^{\circ}$ .) or  $86.3^{\circ}$  multiplied by the sine of the distance of the place from the nearest isothermal pole,\* and  $3\frac{1}{2}^{\circ}$  subtracted from the product. The result is the mean temperature. The mean temperature at the equator in the warmest meridian is  $82.8^{\circ}$ , and at the pole  $-3\frac{1}{2}^{\circ}$ .

The distance of Albany, Latitude  $42^{\circ} 38' 39''$   
Longitude  $73^{\circ} 44' 49''$ ,  
from the isothermal pole calculated by Dr. Brewster’s formula is  $38^{\circ} 34' 51''$ , and by calculation the mean temperature will be  $50.3191^{\circ}$ .

\* The nearest isothermal pole is situated in lat.  $80^{\circ}$ , N. and  $100^{\circ}$  west longitude

By the preceding observations it is  $49.64$ ; but it must be recollected that the results of several very intense winters enter into the elements from which it is deduced.

The temperature of wells, as observed in August and September, 1829, was  $51^{\circ}$ .

As it may be interesting, I add the results obtained in places of nearly the same latitude with Albany. The late Dr. Holyoke, of Salem, made observations in that town during a period of 33 years, (from 1786 to 1818 inclusive.)

\* Latitude of Salem,  $42.31$  N.

Longitude of do  $76.53$ .

Mean temperature deduced as above,  $48^{\circ}68$ .

Greatest range, 112.

Hottest, 101.

Coldest,  $-11$ .

Mean of winter,  $27.502$ .

do spring,  $46.95$ .

do summer,  $69.84$ .

do autumn,  $51.308$ .

These observations were made four times a day, at 8 A. M., at noon, at sunset, and at 10 P. M.

Professor Dewey made meteorological observations at Williamstown, (Mass.) for four years, 1816 to 1819 inclusive.

Latitude,  $42.30$ .

Longitude,  $73.00$ .

Mean temperature for four years,  $44^{\circ}73$ .

Height of Williamstown above the tide waters of the Hudson at Troy, 1,000 feet.†

Height of Albany only 130 feet.

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\* American Almanac for 1833.

† Memoirs of the American Academy of Arts and Sciences, vol. 4, pages 382, 387.

## **ERRATUM**

*In the Catalogue of Academies reporting.*

**Fredonia Academy is in the town of Pomfret.**

**Union Academy is in the town of Ellisburgh.**

**No. 71.**

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**IN SENATE,**

**February 22, 1833.**

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**ANNUAL REPORT**

**Of the directors of the Central Asylum for Instruction of the Deaf and Dumb at Canajoharie.**

*To the Honorable the Legislature of the State of New-York.*

**The directors of the Central Asylum for the Instruction of the Deaf and Dumb at Canajoharie,**

**RESPECTFULLY REPORT:**

**That, since the date of their last report, the institution under their care has labored under many embarrassments, but they think they are principally removed, and that the prospects, at the present, are as flattering as they have been at any former period.**

**Annexed is a list of the officers of the institution, together with a list of the pupils who have been, or are at present in it, with some specimens of their original uncorrected composition.**

**There are present in the institution 34 pupils, of 25 whom are supported wholly, or in part, by the State, 2 by the county of Montgomery, and the residue by their friends.**

**We would also notice that there are a number of applications on file, which we can not receive for want of funds.**

**The pupils are under the care of a principal and assistant teachers, during the hours of school, and of a superintendent and his lady when not in school, and we can with confidence assert, that at no time, since the first establishment of the institution, has there been a more cordial understanding, than exists at the present, among all connected with it.**

**[Senate, No. 71.]**

For want of the necessary funds we have been unable to erect work shops, or employ mechanics to instruct the pupils in the various branches, which are so necessary to their becoming useful citizens; and from the history of the commencement, comparative prosperity and usefulness of this institution, (for which we would refer you to former reports now in your possession,) we would, with confidence, rely upon the liberality of your honorable body for legislative aid, to enable us to carry out the system in all its parts, and to do justice to those who are placed under our care.

We have accordingly prepared a memorial and petition, which will be herewith presented.

All which is respectfully submitted.

By order of the board of directors.

S. D. KITTLE, *Secretary*.

## DOCUMENTS.

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### OFFICERS OF THE CENTRAL ASYLUM.

Hon. Seth Wetmore, Esq. President.  
 Dr. William Campbell, Vice-President.  
 Rufus Morris, Esq. Treasurer.  
 Simon D. Kittle, Secretary.

<i>Directors.</i>	<i>Residence.</i>
Hon. M. Hoffman, .....	Herkimer.
" L. Beardsley, .....	Cherry-Valley.
" J. Miller, .....	Cobleskill.
Rev. W. Paige, .....	Broome.
Dr. S. Marcy, .....	Canajoharie.
A. Bingham, Esq. ....	"
W. R. Wheeler, .....	"
I. W. Gardner, .....	"
R. Bowman, .....	"
S. Helmer, .....	"
M. Van Deusen, .....	"

#### *Superintendent and Physician.*

Dr. E. A. Mulford.

#### *Committee of Instruction.*

A. Bingham, Esq.  
 I. W. Gardner, Esq.  
 R. Bowman, Esq.

O. W. Morris, Principal.

J. S. Backus, Assistant.

### LIST OF PUPILS.

The following have left the institution. Those marked with an asterisk (\*) were supported wholly or in part by the Legislature.

<i>Names.</i>	<i>Residence.</i>
Susannah Bowman,	Canajoharie, Montgomery county.
George W. Campbell,	Cherry-Valley, Otsego
*Polly Flint,	Canajoharie, Montgomery



<i>Names.</i>	<i>Residence.</i>
*Sally Burt,	Canajoharie, Montgomery county.
Catharine Thompson,	Maryland, Otsego "
Mary Scranton,	Esperance, Schoharie "
*Michael Teller,	Sharon, " "
*Mary Timmerman,	Manheim, Herkimer "
Elijah Bristol,	Manchester, Oneida "
*John Smith,	Canajoharie, Montgomery "
Frederick Fox,	" " "
*Laura Scovel,	Williamson, Wayne "
*Aaron McGraw,	Bern, Albany "
*Worcester Heath,	Watertown, Jefferson "
Stewart W. Spiers,	Ballston, Saratoga "
*Charles Dutton,	Middleburgh, Schoharie "
Nelson Cook,	Springfield, Otsego "
*Hannah Orinsby,	Lebanon, Madison "
*Ira C. Seelye,	Worcester, Otsego "
*Sally Flint,	Cherry-Valley, " "
Eldert Lansing,	Watervliet, Albany "
*Isabella Gow,	Argyle, Washington "
*Eleanor Reid,	" " "
George C. Clark,	Auburn, Cayuga "
*Samuel B. Wyckoff,	Blenheim, Schoharie "
*John Cramer,	Canajoharie, Montgomery "
Solomon Garlock,	" " "
*Roxana E. F. Phillips,	Bristol, Ontario "
*Clarissa E. Phillips,	" " "
*Marcia Bartlett,	Broadalbin, Montgomery "
*Andros Baldwin,	Amsterdam, " "
*Matilda Jewel,	Greenwich, Washington "
Louisa Kelsey,	Middleburgh, Schoharie "
*Julia Weeks,	Penfield, Monroe "
*Amariah Babbit,	Rodman, Jefferson "
*Nancy Philips,	Johnstown, Montgomery "
*Silas Banzier,	Knox, Albany "
*Laura Lyon,	Lisle, Broome "
Chauncey Hyde, Jr.	" " "
Andrew M. McKinney,	New-York city.
Orpha Lyman,	Marshall, Oneida "
*Minard Smith,	Hector, Tompkins "
John Page,	Chenango Point.
Rensselaer Brigham,	Sloansville, Schoharie "
Ira Marvin,	Charlton, Saratoga "
*Catharine P. Ellarson,	Broome, Schoharie "
*Mary Flint,	Vernon, Oneida "
*Israel Bacon,	Lockport, Niagara "
*Gitty Decker,	Roxbury, Delaware "
*Almira Betts,	Providence, Saratoga "
*Robert Bell,	Pamelia, Jefferson "
Silence Taber,	Scipio, Cayuga "
*Franklin Scovel,	Williamson, Wayne "

<i>Names.</i>	<i>Residence.</i>
*Perry Plato,	Batavia, Genesee county.
Jacob La Grange,	Bethlehem, Albany
*Maria La Grange,	" "
*Susannah La Grange,	" "
*Eliza Scott,	Sherburne, Chenango
Dexter Parsons,	Orwell, Vermont.
*Amanda Flanders,	Caldwell, Warren
James Forbes,	Clockville, Madison
*Ira W. Lewis,	Preston, Chenango
Jane Eyclesheimer,	Pittstown, Rensselaer

The following are in the Asylum:

<i>Names.</i>	<i>Residence.</i>
*Leverett Spencer,	Madison, Madison county.
*Anna R. Backus,	Lebanon, "
Gerrit I. Vandenburg,	Watervliet, Albany
*Louisa Cox,	Ripley, Chautauque
*William M. Searl,	Martinsburg, Lewis
*Levi Chapman,	Sherburne, Chenango
*Charles H. Peck,	Columbia, Herkimer
*Maria Garlock,	Canajoharie, Montgomery
*Maria Guile,	Oppenheim, "
*Susan Hale,	Johnstown, "
*Catharine Lewis,	Caldwell, Warren
*Aaron W. Hedden,	Newark, Wayne
*William Fuller,	Bern, Albany
*Flava Robinson,	Hunter, Greene
*William R. Martin,	Whitesborough, Oneida
*Catharine Fonda,	Mayfield, Montgomery
*Sarah Guile,	Oppenheim, "
Henry Lansing,	Glen, "
*Joseph C. Dudley,	Bennington, Genesee
*Jonathan Davis,	Providence, Saratoga
*Sally Ann Enos,	Oneonta, Otsego
*Amariah Enos, Jr.	" "
*Huldah Cahoon,	Plainfield, "
*Daniel Cahoon,	" "
*Mary Ann Williamson,	Warren, Herkimer
*Mary Ann Baker,	Otego, Otsego
Jane Buck,	Penn-Yan, Yates
Albert Covert,	Middlesex, "
Elizabeth Covert,	" "
Elisha Bowman,	Canajoharie, Montgomery
Ann Eliza Bowman,	" "
Eliza Alkenbranch,	Charlestown, "
Jonas More, Jr.	Roxbury, Delaware
Getty Lettis,	Root, Montgomery

Former pupils, .....	65
Present number, .....	34
	<hr/>
	99
	<hr/>
Supported wholly or in part by the State, .....	65
By Montgomery county, .....	2
By their friends, .....	31
	<hr/>
	99
	<hr/>

### Specimens of original compositions of the pupils.

I wish to study at the asylum. That cat is catching a mouse. The boy is cutting and working at the wood. I have seen men play driving the horse and drawing the sleigh. The man stole in in the night in the barn and run away. This man went on the wild horses and run them fast. I must not muddy or wet the boys. I hate a snake. There is now much snow. This nose is very cold. That bird is very active and very good to the emperor. That dog is very afraid a boy. The dog is cross to him and the cat is very afraid of him and runs away. The girl is very afraid of a snake. That fox is catching the goose and quick is away. That owl preys on the hens which fear it. He is very proud. He wants a new knife. I like very much to study and improve. They man is driving in the wagon at the drawing of wood. That ox is in yoke and drawing at the plough.

HENRY LANSING.

This boy has been 9 months at the Asylum.

The legislature is sitting at the seat of government. I first went to the capitol at Albany and was very happy to see the legislature who are the representatives of the people. I think that some gentlemen and ladies are very smart in going to the Hall of the legislature government and they admire it very much. A legislature is part of the republican government which governs the people of the United States. Some directors will ask the legislature for support to pay the indigent pupils some money because they are very ignorant but they shall come to school to learn. The city of Albany is the seat of government of the state of N. Y. We are very happy to live in America for we are free from England. We gave thanks to Gen. Washington that he commanded the soldiers to fight the English because the kings owe us money. We are very easy in living in America independent from England.

GERRIT I. VANDENBERGH.

34 years.

I gathered some clothes in the bundle. When I left home with it. I wanted to go in the stage. I did not wait on the stage coming in the evening. I had rather walked on a foot. I told my mother that I wished to spread the sheet on my back. When the wind carried me fast up along for the school. It was a joke. I journeyed about 18 miles. I was very tired. I stopped at the stage tavern. I waited for the stage to come till I went to bed. I slept till 11 o'clock in the night. The tavern keeper called me for the stage had come. I was in a hurry that I might go in the stage. I did not know that I forgot something. I was going about 1 or 2 miles when I recollected that I left my bundle in the tavern. I did not mind about it. I would send for it from the school. The weather was very cold. When I rode in the stage with the passengers. I got to the other tavern past 2 o'clock in the morning. When they trembled with the cold. The weather was very severely. The tavern keeper rose up and made a fire in a small franklin stove that was very slow. They were very cold. They were waiting for the stage to go at 4 o'clock. They sat on the chairs around the stove. They looked very awkwardly. The tavern keeper called the passengers up and the stage started at 4 o'clock. A wife was sleeping too late. She was young. Her husband waited on her. Then he went to call her again to rise up immediately. He dressed with his box coat and mantle very warm. He was angry at her because she was lazy. She started to come to the stove and warm when he scolded her.

LEVERETT SPENCER.

4½ years at the Asylum.

#### A STORY.

A skilful physician lived in Chenango county New-York. He had a very faithful dog named Bent. Bent always followed the physician in his medical visits around the neighboring Villages. When the Doctor stopped at a house and alighted from his carriage; Bent went up to the carriage to sit and protect his property. When Bent was at home, his mistress had been washing and left her clothes in the yard over night to dry. She called Bent to come and keep guard in that yard faithfully till morning. The health of the Doctor had been declining. He went to Europe for the benefit of his health. Several days after he departed, Bent became very uneasy and discontented and went to the Village in search of his master. When he could not find the Doctor, he wandered about the country to the distance of fifty or sixty miles and stopped at every house where his master had ever been, to find him. Bent was gone three weeks, but at length came home and abandoned the search. On the return of the Doctor from Europe, the dog immediately knew him and was very much rejoiced to see him. He threw his fore legs around the Doctor's neck and embraced him very affectionately. Bent could not leave the Doctor until he had retired to bed. Soon the Doctor died, the dog was sensible and very much afflicted at the loss.

ANNA R. BACKUS.

4½ years.



**No. 72.**

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**IN SENATE,**

**March 7, 1833.**

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**MEMORIAL**

**Of sundry citizens of Utica, remonstrating against  
the incorporation of any more banks.**

*To the Honorable the Legislature of the State of New-York, in Senate and Assembly convened.*

The memorial of the undersigned, citizens of this State, respectfully represent to your honorable body: that,

*Whereas*, there are now established among the people of this State between seventy and eighty incorporated banks, all in successful operation, wielding, unitedly, a capital stock of about *twenty-eight millions of dollars*, issuing, at pleasure, more than twice that amount in bank notes, and holding of the people's property, as indemnity for loans of those notes, nearly *sixty millions of dollars*; all of which is now drawing from the avails of the produce of the soil and the sweat of manual labor an oppressive and usurious interest, without adding, in any respect, to the actual wealth of community, or contributing to the equal prosperity or the equal happiness of the whole body of the people: and,

*Whereas*, it appears, by the public prints, that application has been made to your honorable body, praying for the passage of certain laws authorising the applicants, and their friends to establish among the people some forty or fifty additional banks, and to issue a further amount of paper money, the obvious effects of which will be, as your memorialists apprehend, to increase the amount of interest now paid by the hand of patient labor, and consequently the burden now pressing upon the people: to facilitate the concentration of property in the hands of the privileged few, while the many are left in poverty and want; to slacken the bonds

of social order, foster the spirit of avaricious speculation, cherish a propensity to idleness and dissipation, and increase the chances of crime and consequent wretchedness; to destroy the respect justly due to a wholesome frugality and to plain republican simplicity, and that independence of purpose, sentiment and action, which are deemed absolutely essential to the true dignity and the steady virtue of freemen, the purity of the administration of justice and the safety of the Commonwealth: and to create, in the midst of a social community of equals, all holding common rights and common immunities, a privileged order of men, claiming exclusive powers, and exercising them by the force and influence of baseless paper money, and claiming also to live without labor, in splendid luxury, upon the toil and sinews of the unprivileged and industrious many; by all of which, manifest moral wrong, and great and unnecessary and unmerited oppression and misery are inflicted upon the people, in direct violation of the principles and true intent of our social government:

Now, therefore, to the end that these evils may be no further multiplied upon the people, and that each member of the social compact may in due time, be brought to the wholesome and strictly republican condition of earning his own support by the labor of his own hands, and of securing his bread by the sweat of his face:

Your memorialists respectfully pray, that your honorable body, having the paramount welfare and highest happiness of the whole body of the people at heart, will be pleased to reject entirely, each and every application for additional banks, or the right of issuing any further amount of bank paper, on any terms whatever.

Your memorialists feel constrained to represent to your honorable body, that in view of our social relations, the genius and spirit of our government, the character and pursuits of a vast majority of the whole people, and the policy best calculated to secure to each and all, equal rights and privileges, equal prosperity and happiness, and the true greatness and glory of the State, they cannot but regard chartered monopolies of every kind, and partial legislation of any kind, and more especially, that kind which takes from the many and transfers to the few, the right of issuing on loan promissory notes, upon fictitious capital, and at a rate of interest usurious and ruinous, as being nothing less than so many broad departures from the course of moral justice; unwarrantable pervers-

sions of the immutable principles of *eternal right*, and consequently dangerous to the freedom of the whole body politic.

Your memorialists would ask with deep, but respectful solicitude, what must of necessity, be the consequences on the future condition of this growing country, of a continued increase of banks, and the unlimited circulation of paper money? If the history of past events furnish any rule by which those of the future may be determined, then it will require no gift of prophecy to predict the consequences.

Your memroialists refrain from troubling your Honorable body with a detail of the evils which they honestly believe must follow a further increase of banking privileges, nor will they now stop to offer any arguments to prove those fears well founded, for they apprehend that every man conversant with the nature of our political institutions, and the history of past republics, will at once see those evils, and feel himself called upon to exert his highest moral powers to avert them.

If the interests of the State, and the welfare of the people imperiously require the existence of banks, and if paper money must be the future circulating currency of the country, the necessity of all, which appears to your memorialists extremely doubtful, then your memorialists would respectfully submit to your honorable body the propriety of establishing in the State, at the seat of government, and upon the funds of the State, *a commonwealth bank*, with such branches as the wants of the people may require, and of appropriating the nett avails of the whole to the support of the State government, and to the purposes of equal and universal education, disseminated among the people by means of *manual labor schools*, open alike to the rich and the poor.

By this course, if the business of making and issuing bank notes upon loan and interest, be profitable, the whole body of the people will share that profit, as well in being released from a large portion of public taxes, as in being furnished with the means of acquiring knowledge, and consequent usefulness and happiness.

But whatever may be the views of your Honorable body in relation to the plan of establishing a State bank and branches for the benefit of the whole people, your memorialists hope they will be pardoned the freedom of repeating their first prayer, and of be-



seeching your Honorable body to refrain at all hazards from granting to any man or set of men, the right of establishing additional banks, or issuing additional quantities of paper money.

And your memorialists, as in duty bound, will continue to pray.

*Utica, Feb. 4th, 1833.*

S. C. Space,	• James Manuel,
L. Holbrook,	John Grove,
J. E. Space,	Harry Bushnell,
Wm. E. Kerner,	N. Christian,
J. J. Stuart,	Wm. Blackwood,
Philemon Lyon,	H. Newland,
Wm. G. Miller,	J. P. Newland,
Q. Graves,	Thos L. Kingsley,
Lester Hoodley,	Shubael Storrs,
Wm. Adams,	John McEneany,
H. Adams,	Jos. Hoytt,
C. S. Shippy,	Hiram Rose,
S. H. Haws,	C. Carpenter,
S. Bushnell,	B. S. Welles,
W. S. James,	W. Francis,
Montgomery R. Bartlett,	Owen Owens.

**IN SENATE,**

**March 12, 1833.**

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**REPORT**

**Of the Canal Commissioners, on the petition of Harvey Edwards, and others, in relation to the feeder on Limestone creek.**

The Canal Commissioners, to whom was referred by the Honorable the Senate, the petition of Harvey Edwards, John McVickar, William M. Redfield, Daniel Collins and Darlin Thompson, together with other inhabitants of the village of Fayetteville, in the town of Manlius, and county of Onondaga,

**REPORT:**

The petitioners represent that the Limestone creek, in said town of Manlius, has been taken by the State as a feeder to the Erie canal; that said feeder is about three-fourths of a mile in length, and is navigable; that there is no road leading to said feeder, nor any way to approach the same, without passing over the lands of individuals, or private property, except by the Erie canal.

The petitioners further represent, that the persons above named are the proprietors of a canal, which was constructed by individuals, from the head of the navigable feeder constructed by the State, up said creek, to the north branch of the Seneca turnpike road, a distance of about one-fourth of a mile, which canal is navigable; has one wooden lock, and was constructed at an expense of about three thousand dollars.

The petitioners further represent, that said village is a place of considerable business, where a large amount of property is put on board of boats to send to market, and where a large amount of

merchandise is landed for the surrounding country, and that the proprietors of said lock and canal are desirous of releasing the same to the State.

The petitioners pray that a law may be passed, authorizing the Canal Commissioners, or other agents of the State, to take a grant or conveyance to the State, of the interest of said proprietors in said lock and canal, that the navigation may be free and uninterrupted from said turnpike road to the Erie canal.

The same rate of toll is charged upon that part of the Limestone-creek feeder, which was constructed by the State, as upon the other navigable canals. If the proprietors of the lock and canal, which were constructed by individuals, should release their interests to the State, toll would likewise be charged upon that part of the feeder. If the Canal Commissioners were satisfied that tolls sufficient to keep this part of the feeder in repair would be received from it, they would not hesitate to recommend that the State should take the title to it from the proprietors, and adopt it as a part of the public works: but they do not believe that the amount of tolls upon this part of the feeder would be sufficient for that purpose. If therefore the State should conclude to take this work, it must, in the opinion of the Commissioners, be from other inducements than the mere amount of tolls that can be expected from it.

It would undoubtedly be a matter of convenience to the inhabitants in the neighborhood of this feeder, to have it all owned and controlled by the State. If the individuals should allow their part of the work to be out of repair, so as to prevent navigation, or should not permit the use of it, in either case the inhabitants would be compelled to resort to land carriage to get property to or from the Erie canal, and the State would get no tolls from its part of the navigable feeder, because it could not be used without passing over individual property.

The petitioners state, that this work has been constructed "at an expense of about three thousand dollars; and that the proprietors are willing to convey the same to the State," as the Commissioners infer, without receiving any compensation therefor.

Since this petition was referred to the Commissioners, they have received the certificate of an engineer, shewing the condition

of the works proposed to be conveyed to the State, on the 25th of February last. From this certificate, it appears that some expense will have to be incurred to put the works in repair. The Commissioners suggest, that if the State take these works, it should be upon condition that they are put in good repair by the proprietors, and that they construct a towing-path by the side of the canal.

All which is respectfully submitted.

**JONAS EARLL Jun.**

**WM. C. BOUCK.**

*March 11, 1833.*



**IN SENATE,**

**March 4, 1833.**

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**REPORT**

**Of the committee on roads and bridges, upon the petition of inhabitants of the village of Geddes, in Onondaga county.**

The committee on roads and bridges, to which was referred the petition of inhabitants of the village of Geddes,

**REPORTED:**

The village of Geddes, in the county of Onondaga, was originally laid out by the Commissioners of the Land-Office, on lands belonging to the people of this State, being part of the "Onondaga Salt Springs Reservation;" and it is understood, that the owners of lots hold their titles from the State, bounded upon streets, most of which are one hundred feet wide.

The petitioners express an opinion that the streets are too wide, and that they ought to be reduced to four rods: they therefore pray for a law authorizing the trustees of the village to reduce such of the streets as they may think proper, to four rods wide, in such manner as to leave for sale one rod on each side, (except the outside streets, and from them to sell two rods thereof,) to the owners of the village lots or blocks adjoining thereto, at the fair appraised value, to be ascertained by three disinterested persons, to be appointed by the trustees for that purpose; and that the moneys arising from such sales be appropriated to the use of the village.

The complaint of the petitioners is of a novel character: while millions have been expended for opening and widening streets, objections to their too great extent have been uncommon, and the

committee have not been able to perceive the necessities which can justify a compliance with the views of the petitioners. The present owners of lots undoubtedly hold their titles under the authority of this State, bounded upon and entitled to all the advantages arising from a street one hundred feet wide: and it seems to your committee, that nothing short of a formal contract between the parties can justify a departure from the terms of the original understanding.

But, suppose the streets may be reduced in width, consistent with good faith, how are those which are built upon to be reduced to four rods? Can it be supposed that the owners of buildings will remove them from their present foundations to the new line of the street, at the expense and inconvenience consequent upon such a measure? And what are the disadvantages of the present streets? As they now are, ample space is afforded for porches, side-walks, ornamental trees, and even front inclosures; while sufficient room will be left for all the purposes of carriages, and the business transactions of a populous and active village; and the dwellings will be more remote from the inconvenience resulting from dust and other annoyances, of crowded streets. It may be said, that the expense of keeping in good order the streets as they now are, would be greater than if they should be reduced; but that conclusion does not seem necessarily to follow, at least to any great extent, as no more need be permanently improved by pavements or otherwise, than public convenience may call for.

If a reduction of the streets to four rods wide should be authorized by law, according to the prayer of the petitioners, the gores which would separate the village lots from the streets, would revert to the State; and a question arises, whether the village or the general fund have the strongest claim to the avails of those lands. If a law should authorize a sale to the owners of the lots for the benefit of the village, can such owners be compelled to purchase? And if not, would it be consistent with the undertaking of the State, as grantors in the titles, to interpose other owners between the original lots and the new lines of the streets? The committee think not.

From the consideration which your committee has given to this subject, they have been led to the conclusion, that the prayer of the petitioners ought not to be granted.

**IN SENATE,**

**March 13, 1833.**

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**REPORT**

**Of the select committee, on the petition of Daniel Avery.**

Mr. Seward, from the committee to whom was referred the petition of Daniel Avery, a commissioner of loans for the county of Cayuga, submitted the following

**REPORT:**

The petitioner states that he has held the office of commissioner of loans, for the county of Cayuga, from the year 1808, until the present time; that on the first day of May, 1817, one Samuel Seward, since deceased, executed to the petitioner and William Satterlee, then being commissioners of loans for the said county, a mortgage for the payment of sixty-four dollars, with interest, upon two and a half acres of land in the town of Scipio; that the said Seward, at the time of the execution of the said mortgage, complied with the provisions of the act of April 11th, 1808, by producing to the commissioners a certificate of the clerk of the county of Cayuga, stating that the title of the mortgaged premises was unencumbered, and by making oath of the same fact; that default was made in the payment of the moneys secured by said mortgage, and on the 19th of September, 1826, the commissioners, in pursuance of law, sold the mortgaged premises at public auction; that William Culver became the purchaser of the premises at the price of eighty dollars, paid the purchase money, and received a deed; that in 1829, the said Culver prosecuted an action against the petitioner, for alleged fraudulent and deceitful representations made by the petitioner at the loan-office sale, concerning the title of the premises, whereby he, Culver, was induced to buy the premises, in the belief that he



should obtain a perfect title for the same, when in fact he obtained no title by his purchase, the premises having, before the loan-office sale, been sold by virtue of a judgment which was a valid and existing lien at the time of the execution of the mortgage by Seward to the commissioners; that the petitioner pleaded the general issue in the said action, and that at the trial thereof, Culver recovered a verdict of seventy-five dollars, for which amount, with costs of suit, judgment was rendered by the supreme court, and the petitioner has paid the same.

The petitioner contends that inasmuch as the consideration upon which the verdict was rendered, was substantially the failure of the title, and the right of Culver to recover back, therefore, the purchase money he had paid; and as the petitioner has accounted, or is liable to account to the State for such purchase money, the State ought to indemnify him against the recovery.

The petitioner appears to be aware that a strong presumption against him arises from the peculiar force of the action; the verdict of the jury being properly regarded as a conviction of fraud, and the sum awarded sounding as damages for such fraud. Nevertheless, he furnishes a copy of a case which was made on the trial, and which contains the proceedings and evidence on the trial, and confidently asks the Legislature so far to review the proceedings, as may be necessary to decide whether the verdict was not manifestly erroneous and unjust.

The petitioner states as considerations which may operate upon the Legislature to grant him a hearing, that long illness prevented his attendance at the trial of the cause, and that although the amount of damages and costs recovered against him is not inconsiderable, he prays this investigation less for the purpose of being relieved from pecuniary loss, than from a desire to remove from an otherwise unsullied reputation, the imputation of fraud in the discharge of an important public trust.

Whatever may be the action of the Legislature on the subject, the committee think these considerations furnish justifiable motives for this application, and the committee take pleasure in saying, that with the exception of this verdict, the reputation of the petitioner, as a private citizen, and one who has held many highly honorable and responsible public trusts, is without reproach.

Submitting as a preliminary remark, that there is no law of this State by which the Comptroller is authorized to give relief to the petitioner, the committee proceed to consider whether the case presented is one proper for legislative interference, and if so, what is the proper mode and measure of relief? The grievance complained of, is the erroneous decision of a jury convicting the petitioner of fraud. Offences of that nature are so odious, that the committee believe juries seldom convict where the evidence is not full and conclusive. Nevertheless, it is not to be denied that in such cases, as well as others, juries, as well as all other human tribunals, may err, and if the error be palpable, and the consequences be oppressive and ruinous, relief ought to be given, unless it be inconsistent with some important principle of public policy. Undoubtedly, in such cases, application should be made to the court. Such an application was made by the petitioner. A case was made and settled, and a motion was made in the supreme court for a new trial, grounded as well upon the alleged error of the jury, in point of fact, as some supposed errors of the judge in matters of law. The court sustained the legal principles laid down by the judge, and as to the question of fact, the court, in delivering the opinion, said: "The finding of the jury disposes of the question of fraud. They have pronounced the defendant guilty of the false and fraudulent representations alleged in the declaration, and that they were made with the fraudulent intent to deceive and injure the plaintiff. A verdict must be most clearly and manifestly against the evidence, to justify the court in an action like this, in setting it aside. This is not a case of that description. Whatever may be the opinion of the court upon the strict weight of evidence, as it appears on the case, the jury, whose province it was to weigh and pass upon it, who saw and heard the witnesses, have thought the preponderance against the defendant. *We should have been inclined to a different conclusion*, but the jury not only had the right, but were more competent fairly and discreetly to decide the question than we are. Their decision cannot be disturbed." Thus the court, although they virtually admit that the verdict of the jury is erroneous and unjust, decide that they cannot legally review the evidence upon which it was grounded.

The committee are not aware of any principle of public policy which forbids Legislative interference. The case is one so anomalous (that of a public officer practising a fraud on another person, not for the purposes of gain or advantage to himself, but of

profit and undue emolument to the State,) that it can hardly be feared the action of the Legislature will be drawn into a precedent. But it may be said, the Legislature ought to hold with the supreme court that the jury in this case were more competent than the Legislature to judge. The answer is, that the application goes no further than for authority to the Comptroller to examine into the matter, and that the State having received from the petitioner the amount received on the sale of the mortgaged premises, stands in the relation of a party who may refuse to avail itself of an inequitable advantage, although a court of law would not give relief.

It may be supposed difficult for the Legislature or the Comptroller to ascertain the facts upon which the verdict of the jury was grounded. But when it is recollected that the case made in the said action was prepared immediately after the trial, was submitted to the jealous scrutiny of counsel on both sides, and underwent the supervision of the judge who tried the cause, and that it was made with the purpose of applying to the supreme court for relief upon the same grounds urged by the petitioner to the Legislature, it must be admitted, that it presents with sufficient accuracy, the proceedings on the trial.

Upon a full and fair review of the case, the committee are of opinion that the verdict of the jury was unjust to the petitioner.

The false representations alleged to have been made by the petitioner were, that "*the mortgaged premises were clear of any other incumbrance, and that the purchaser thereof under the mortgage sale would thereby acquire a good and perfect title.*" The gravamen of the charge against the petitioner was, that the premises had been sold under and by virtue of a judgment in favor of the petitioner himself, which judgment was outstanding and valid at the time of the execution of the mortgage. That the purchaser under the judgment had perfected his title, and therefore Culver, the plaintiff, acquired no title by his purchase under the mortgage, all of which facts were known to the petitioner.

The committee remark in the first place, in relation to this branch of the subject, that the evidence was insufficient to establish the fact that the petitioner made the representations alleged in the declaration. Three witnesses testified concerning the proceedings at the sale; Azor Cole, Allen Warden, and Matthias Huffman. Cole testified that after the land was put up at auction Culver came in;

Avery asked him, (Cole,) to bid. Culver asked Avery about the title of the premises, and whether it was good. Avery replied, that he presumed it was good. Warden testified that when Culver came in he made some inquiries about the title. Avery went on to state about the title, and said the loan-office commissioners had taken the necessary steps when the mortgage was taken, to ascertain about the title, that they had taken Seward's affidavit that Seward's title was clear; and also that Seward produced a certificate from the clerk of the county, that there was no incumbrance. Then a question came up about a judgment. Avery said there had been a judgment in his favor against Seward. He (Avery) had got his pay on it. Eleazer Burnham had transacted all the business relating to that judgment. He (Avery) had spoken to Burnham about it a few days previous, and Burnham told him the judgment would be no impediment upon the title, and he (Avery) presumed it would not, for Burnham knew all about it. In this testimony the witness, Huffman, substantially concurred. The committee think it is doing violence to the language used by Avery to construe it as a direct and affirmative allegation, that the premises were unincumbered, and that the purchaser would obtain a good title. But this might be regarded as a limited and technical view of the subject, and the committee would not recommend any measure of relief, if, upon a review of the whole case, it shall appear that the petitioner, although he made no direct affirmation, had given a false coloring, or fraudulently suppressed any material fact within his knowledge, relating to the title of the premises.

The judgment under which the premises were sold being in favor of the petitioner himself, the representations made by him would at first view seem incapable of any explanation consistent with his entire innocence of the fraud charged upon him. But the testimony furnishes an explanation entirely satisfactory to the committee. The history of the judgment as proved on the trial is, that the petitioner, in May, 1816, left for collection, with Eleazer Burnham and Seneca Wood, attorneys, two notes made by Seward. That on the 17th May, 1816, Wood and Burnham issued a writ in favor of the petitioner against the said Seward. That on the same day Seward paid the costs of the capias, and executed at the office of Wood & Burnham a bond and warrant of attorney in the penalty of \$220 condition for the payment of \$110. That judgment was perfected in the common pleas of Cayuga in favor of the petitioner against Seward, upon and by virtue of this bond and warrant of attorney on the 22d day of May, 1816, with stay

of execution until September 1816. That on the 30th of September, 1816, an execution was issued to collect the amount received by the condition of the bond, with the costs of the suit; which execution was taken back by the attorneys from the sheriff, and does not appear to have ever been levied. That the petitioner on the 19th October, 1816, assigned the judgment to Eleazer Burnham, who then became in his own right the owner of the judgment, and on the same day, paid and accounted to the petitioner for the debt and interest received by the said judgment. All this transaction took place, it will be recollected, before the execution of the loan-office mortgage. On the 7th December, 1816, Seward paid to Burnham \$100 on the judgment. That the mortgaged premises were sold and conveyed on the 11th June, 1818, by Samuel Seward, to Hale and Peck, and Hale and Peck, or one of them, on the 9th of March, 1819, without the agency or knowledge of the petitioner, applied to Burnham and Wood to issue an execution upon the judgment for the balance due. The execution was levied under the management of Hale and Peck, upon the mortgaged premises, which were sold on the 13th May, 1819, to Hale and Peck for \$33.21; who thereupon received a deed from the sheriff for the premises, whereby their title became perfect, and the loan-office mortgage was overreached and defeated. The testimony of David Thomas, the deputy sheriff, of Burnham and Wood and Hale himself, all excuse the petitioner of any agency or participation in, or knowledge of these proceedings, which there can be little doubt, were fraudulent on the part of Hale and Peck.

After Avery had advertised the premises for sale, in pursuance of the mortgage, Hale, as he testifies, had a conversation with Avery, in which they spoke concerning the judgment and the sale of the premises by execution. Hale contended that Avery ought not to sell the premises; Avery then called upon Burnham for information and advice, and was advised by Burnham that the sheriff's sale was fraudulent; that Hale and Peck had received from Seward a deed for his property, upon consideration that they should pay his debt; that they had taken out the execution to overreach the loan-office mortgage, and that from the information he, Burnham, had received, he was satisfied there was *hugger mugger* work about it, and advised Avery to sell the premises, on the ground that the purchase by Hale and Peck was fraudulent and void. The petitioner is not a lawyer, Mr. Burnham has long been a respectable counsellor; acting as it appears under his advice, the petitioner proceeded to sell the premises.

The fair import of all the evidence justifies the assertion, that at the sale Avery communicated all the above facts relating to the incumbrance, and gave merely his opinion that the sale on the judgment would be no impediment upon the title, which opinion he grounded upon the advice of Mr. Burnham, to whom he referred both for facts and for authority as to his opinion on the legal questions relating to the effects of the sheriff's sale. Whether the petitioner erred in opinion upon the legal effect of the sheriff's sale, depends upon the facts vouched to him by Burnham, but if it be admitted, the committee are satisfied that he committed no more criminal error in the sale, and that having taken every prudent measure to be correctly advised, the error is not such an one as to justify his being left under an unjust verdict for fraudulent and deceitful representations concerning the title.

The fact was proved on the trial, that Seward did produce to the commissioners a certificate of the county clerk, that the premises were unencumbered; this certificate was doubtless made by mistake, but it contributed with the affidavit of Seward, who was a reputable citizen, to induce the belief on the part of the petitioner, that the judgment was virtually satisfied.

It remains to be considered, whether the Legislature ought to afford any relief. It will be seen that the State has received the sum of seventy-five dollars, the avails of the sale of the mortgaged premises, of which the deed of the State gave no title. It would seem therefore to be just, that inasmuch as by the verdict this amount was recovered from the petitioner, he being an agent of the State, that amount, if no more, should be refunded to him.

Convinced that the petitioner has acted in good faith, and has without gross fault on his part, suffered the loss of the damages and costs recovered against him in consequence of acts done in the discharge of his official duty as a commissioner of loans, the committee deem it proper that he should be allowed in the settlement of his accounts as such commissioner the amount of damages and costs paid by him. But inasmuch as the grievance most complained of is the injury inflicted by the verdict upon his reputation, a reimbursement to him of the monies received by him on such sale, will perhaps be sufficient evidence of the confidence of the State in his integrity, the committee will not here urge the allowance of a sum greater than that amount.

The committee are sensible that the Legislature will hardly be willing to bestow upon this subject a degree of attention so close as to warrant their definitive action upon the subject, and that the Comptroller can with greater ease and probability of correctness examine into the matter. They therefore do not recommend that the Legislature shall grant relief in the first instance, but that a law be passed authorising the Comptroller to examine into the facts stated by the petitioner, and if in his judgment the petitioner in the transaction of such loan and sale, has acted in good faith, then that the Comptroller be authorised to audit and allow to him in the settlement of his accounts, all sums of money which he has been compelled to pay or expend in consequence of the prosecution of the aforesaid action at law against him.

The committee ask leave to introduce a bill in conformity to the views contained in this report.

All which is respectfully submitted.



**No. 76.**

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**IN SENATE,**

**March 13, 1833.**

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**MEMORIAL**

**Of merchants and others of the city of Albany,  
against the bill for reducing the rate of interest.**

The undersigned, merchants of the city of Albany, and others, beg leave respectfully to state the objections which in their judgment present themselves against the passage of the bill now pending before the Legislature for reducing the legal rate of interest.

They conceive that, as facilities for the influx and full employment of capital increase the aggregate wealth and prosperity of the State, so also that checks upon its introduction, or restraints upon its employment and circulation; restrict trade and commerce, and diminish the sources of general prosperity.

That a diminution or withdrawal of capital tends to enhance the value and price of money, and to increase the cost of it to borrowers, whatever may be the statutory disabilities or penalties. And that the effect of a legal standard of interest, below the market value of money, enforced by the penalties of the usury laws, will be to diminish the actual amount of capital, to lessen the facilities or sources of obtaining money for business and other purposes, and consequently to enhance the cost of money to the borrower.

Your memorialists believe that these positions apply to all classes of men and to all avocations, but particularly so to your memorialists, as a body of men familiar with the value and use of capital. Merchants are borrowers of capital. They never cease to be borrowers *as a class* of the community, until they have acquired a competence; and then they cease to be merchants, and become lenders of capital for the benefit of merchants. As merchants, they charge or receive interest *by compulsion*, and not from *choice*, in



consequence of their credits being prolonged by their customers beyond the term stipulated. The effect therefore of laws restricting the introduction and amount of capital, although prejudicial to all classes of borrowers, and to all who use or employ money, or who render it productive, is particularly so to those engaged in mercantile pursuits.

The tendency of a low standard of interest, guarded by penalties, is to prevent the influx of capital from other countries and other States, and at the same time to produce an afflux from our State. Your memorialists beg leave to offer a single illustration. If this law applied to our city alone, its effect would be to expel from it all the seven per cent loans now made, and prevent future loans of capital that could find good security without the city at seven per cent. These two causes combined would make a draft upon the capital of our city to a very large amount; paralyzing enterprise, checking improvement, and producing a ruinous dearth of capital, which would be felt by all, and by none more than by the merchant. If such would be the effect in an old city like this, where capital is not scarce, (and that it would be such we appeal to all practical men,) what must be the effect upon the State at large, where the field for enterprise is so wide, where wild lands are to be subdued and paid for, where buildings are to be erected, farms stocked, villages built, canals and rail-roads constructed, and manufactures established and sustained.

All classes of the community must suffer by restraints, except the capitalist. He alone is beyond the reach of legislative coercion. His capital cannot be depressed in value by legislative enactments. If its use in the shape of a loan is fixed below the market value, or the sum which commerce has awarded to it, it will change its location; it will seek some other place or State where it will command its value, or instead of being loaned, it will be invested in an article made cheap by the operation of this law. The inevitable consequence will be to render capital scarce where it is now abundant, and to compel those who borrow and use capital in business pursuits, to pay higher rates of interest than they now pay upon loans. Such must be the effect of reducing the amount of capital, and compelling borrowers to resort to sources that will lend at higher than the legal rates, and will charge a consideration for doing so.

Under these views, your memorialists respectfully request that the bill alluded to, now pending before the Legislature, may not be passed into law.

And as in duty bound, will ever pray, &c.

I. & J. Townsend,  
J. H. Ten Eyck & Co.  
R. M. Meigs,  
Richd. Marvin,  
B. Knower,  
Thomas Dunn,  
G. Y. Lansing,  
Smith & Porter,  
Wm. Mitchell,  
H. T. Mesick,  
D. D. & W. Winne,  
F. & E. Pease,  
Edwin Jesup,  
Joshua Tuffs,  
Ralph Pratt,  
John Fay jun.  
Willard & Lawrence,  
Hochstrasser, Denison & Guest,  
S. P. Jermain,  
J. Sherman & Co.  
T. W. Ford & Son,  
R. Boyd,  
Gregory, Bain & Co.  
W. W. Groesbeeck,  
Sol. W. Southwick,  
I. W. Staats,  
W. S. Shepherd & Co.  
William Gay,  
Treadwell & Norton,  
Allen Brown,  
Dibblee & Brown,  
Nathl. Davis.  
John V. S. Hazard,  
Jno. I. Salter & Co.  
Rufus Brown,  
Webster & Skinners,  
W. C. Little,  
Saml. Morgan,

Erastus Corning & Co.  
Thos. & Jos. Russell,  
Rufus H. King & Co.  
Benedict & Roby,  
Cook & Schoolcraft,  
G. W. Stanton & Son,  
O. R. V. Benthuyssen,  
Gill, Cooper & Co.  
H. & C. Webb & Co.  
Elihu Russell,  
Marvin & Raymond,  
Paige & Cassidy,  
Joel Rathbone,  
Seth Hastings,  
Humphrey & Co.  
Pruyn, Wilson & Vosburgh,  
William Newton,  
Friend Humphrey,  
Seymour, Wood & Co.  
J. & R. F. Slack,  
Rathbone & Chapin,  
G. McPherson,  
Jas. T. Hildreth,  
Lyman Root,  
Lightbody & Hewson,  
R. Shepherd,  
James Clark,  
Steele & Warren,  
Smith & Strong,  
C. & A. W. Johnson,  
Jefferson Mayell,  
W. A. Wharton,  
H. Nichols,  
H. Newman,  
Carr & Vandenberg,  
John N. Quackenbush,  
Walsh, Leonard & Jackson.



**IN SENATE,**

**March 16, 1833.**

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**REPORT**

**Of the select committee, on the petition of the Trustees of the Seamen's Retreat.**

The select committee, consisting of the Senators of the first Senate district, to whom was referred the petition of the Trustees of the Seamen's Retreat,

**REPORTED:**

That this charitable institution, for the support of sick and disabled seamen, was established by an act of the Legislature, passed 22d April, 1831, and was endowed by an appropriation to their use, of that part of the Marine Hospital fund, composed of the tax on captains, mates, and sailors, arriving in the port of New-York; and leaving an ample provision for the said hospital, by the income derived from the tax on passengers arriving in the same port. This fund being divided in this manner, between two useful and charitable institutions, the Seamen's Retreat has been erected by the trustees, and is now in successful operation; but their funds have been exhausted in the purchase of ground, the erection of buildings, and supplying their hospital. Although they have been but about eighteen months in operation, they have extended relief to about seven hundred sick and disabled mariners, consisting of captains, mates, and sailors.

The healthy and commanding situation of the institution, on the eastern banks of Staten Island, overlooking the bay and harbor of New-York, has given it such a preference over the hospital in the city of New-York, that the latter is shunned by the invalid mariner, if there is a possibility of gaining an admission into the former.

The extent of the relief applied for and granted, and the expenses of completing necessary accommodations, have kept pace with their income, and compelled the petitioners to ask an extension of the law of last session, exempting the trustees from the payment of certain board, to the Marine Hospital fund.

By the act of 1831, establishing the Seamen's Retreat, it is enjoined upon the trustees of the same, to pay to the Commissioners of Health, the expense of boarding such sick seamen as may be detained in the Marine Hospital at the quarantine ground. From this charge the trustees have been exempted for the years 1831-2, and they allege that by a further exemption, they will be enabled to progress with their laudable institution, without running in debt.

The effect of granting this relief will be to authorize the Hospital fund to receive a credit equal to the amount of the board, in their annual account, instead of transmitting the money from one charitable fund to the other. To this the committee see no objection, as it appears that the income of the Hospital fund is sufficient to pay all the expenses of the Marine Hospital, the eight thousand dollars to the House of Refuge, and leave a surplus.

The committee, therefore, recommend that the prayer of the petitioners be granted; and for that purpose have prepared a bill, and ask for leave to introduce the same.

**IN SENATE,**

**March 16, 1833.**

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**REPORT**

**Of the Canal Commissioners, to whom was referred by the Hon. the Senate, the petition of Elizabeth S. Granger and William W. Chapin, and the petition of sundry inhabitants of Buffalo.**

The Canal Commissioners, to whom was referred by the Honorable the Senate, the petition of Elizabeth S. Granger and William W. Chapin, and the petition of sundry inhabitants of Buffalo, with accompanying documents, together with the following resolution:

*“Resolved, That the committee on canals be discharged from the petition of Elizabeth S. Granger and William W. Chapin, and from the petition of sundry inhabitants of Buffalo, praying relief from the injury sustained by damming the Conjockety creek by the works of the Erie canal, and that said petitions with the accompanying documents, be referred to the Canal Commissioners, and that said Commissioners report to the Senate their opinion of the cause and extent of the injury complained of, and of the propriety and practicability of affording the relief prayed for.”*

**REPORT:**

The petitioners, Elizabeth S. Granger and William W. Chapin, represent, “that in damming the eastern channel of Niagara river, between the main land and Squaw island, and from extending a pier from thence to Bird island, the water at the mouth of Conjockety creek is raised about five feet, and that more than forty acres of land owned by the petitioners, some distance above the mouth of said creek, is thereby overflowed and rendered useless for cultivation; that the atmosphere in that vicinity is rendered un-

healthy by such overflowing, and the inhabitants subjected to fevers." The other petitioners give a statement, the same in substance as above, and the affidavits of William W. Chapin and Samuel R. Atkins, which accompany the petitions, are in corroboration of the statements therein made.

"The petitioners pray that a law may be passed, authorising the Canal Commissioners to make a dam across the said creek a short distance above its mouth, and turn the water through an artificial channel into Cornelius' creek, which would reduce the Conjockety to its natural bed, and remove every cause of complaint."

The construction of the dam and pier at Black Rock has, in the opinion of the Commissioners, caused the injury complained of by the petitioners: But they do not know the extent of the injury. From a paper on file in the Comptroller's office, it appears, that in the month of October, 1826, W. W. Chapin presented to the Canal Appraisers, a claim for damages, in which he states, "that he was the proprietor of a farm in the town of Buffalo, containing about two hundred and eighty-five acres of land, a portion of which, supposed to be about twelve acres, had been entirely destroyed in consequence of the rise of water in the Seajaquoddy creek, caused by the erection of a dam at the lower end of Squaw island." It also appears from another paper on file in the Comptroller's office, that in the month of October, 1826, Erastus Granger presented to the Canal Appraisers, a claim for damages, in which he stated, "that he was the proprietor of a farm, containing about seven hundred acres, situate in the town of Buffalo, about a mile from Niagara river, a part of which bordered on Seajaquoddy creek, and that twenty acres of it had been entirely ruined in consequence of the rise of water in the creek, caused by the erection of a dam at the lower end of Squaw island."

The premises for which damages were then claimed, are understood by the Commissioners, to be the same now owned by the the petitioners, W. W. Chapin and Elizabeth S. Granger.

The Board of Canal Appraisers passed upon these claims, and adjudged in each case, "that the benefits and advantages arising from the canal, are equal to the loss and damage the claimant has sustained."

The petitioners represent, "that they are advised and believe, that a dam may be made across the said creek, a short distance above its mouth, and the water turned through an artificial channel into Cornelius' creek, which would reduce the Conjockey to its natural bed, and remove every cause of complaint. The expense of the whole work, the memorialists are certain could be but a few thousand dollars, the greater part of which, the value of the hydraulic privileges created by the work itself, would be sufficient to pay."

The Conjockey creek enters the Black Rock harbor about sixty rods above the guard lock, which is at the connection of the canal with the harbor, and Cornelius' creek enters the canal about a half a mile below said lock. This guard lock is frequently kept open during a part of the season of navigation, the effect of which is to bring the two creeks nearly upon the same level. It is therefore evident, that "making a dam across Conjockey creek near its mouth, and turning the water through an artificial channel into Cornelius' creek," would not remedy the evil complained of by the petitioners; and how "hydraulic privileges could be created by this work," the Commissioners have not a sufficient knowledge of hydrostatics to determine.

If relief is to be afforded to the petitioners from the injury of which they complain, it must in the opinion of the Commissioners, be, by carrying off the water from their land upon a lower level than will be found at the connection of Cornelius' creek with the Erie canal. Perhaps a culvert might be so constructed as to take the waters of this creek under the canal, into the Niagara river, which would lower the creek four or five feet. If this was done, and a channel cut to connect the two creeks, and a dam constructed to prevent the flowing of the water from the harbor into the Conjockey creek, probably it would afford the petitioners the relief prayed for. As to the propriety and practicability of affording "relief" in this way, the Commissioners have not the necessary information upon the subject to enable them to decide.

All which is respectfully submitted.

JONAS EARLL, Junior.  
S. YOUNG,  
WM. C. BOUCK.





**No. 79.**

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**IN SENATE,**

**March 18, 1838.**

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**REPORT**

**Of the select committee on the memorial of the  
New-York State Agricultural Society.**

Mr. Sudam, from the select committee to which was referred the memorial of the New-York State Agricultural Society, praying for the establishment of an Agricultural School,

**REPORTED:**

That they have had under their consideration the subject submitted to them, accompanied by a report made during the present session, to the New-York Agricultural Society, and on which their memorial to the Legislature is predicated.

It will be conceded that there is no portion of the community more entitled to the fostering care of the Legislature, than the tillers of the soil. The farmers of the State of New-York are a class numerous, wealthy, industrious, patriotic, and above all other classes, from principle, devoted to our republican institutions, and cherishing with a holy spirit the union of our States. Their political exertions are not called forth by a desire of any great portion of their own body for legislative honors, or for those of the minor judicial situations in the State; but to maintain and preserve inviolate that sacred trust which has descended to them by the revolutionary efforts of their fathers, the full protection of life, liberty and property.

When a storm arises in the horizon and danger awaits us from abroad, or when crazed ambition at home drives the frenzied passions of men to madness and all its excesses, it is in the farming interest of the country that you find the steady hand which

holds the balance of political power, and by its strong arm repels the foe, or by its electoral voice annihilates the unjust hopes of the aspiring ambition of profligate politicians.

It may be said by your committee, (without the imputation of a State vanity,) that New-York holds a high rank by her munificent endowments of colleges, academies and common schools. We, knowing their extent, need not elaborate on them in this report. Still it is but just to say, that she is already cited in Europe as a signal instance of what may be done for the education of every class of society, under the soft and benign influence of a free government, and that her motto is, "Knowledge is wealth."

In her enterprize, by facilitating intercourse between the different sections of her State and the waters of the Atlantic, she is as unrivalled in conception as she has been successful in execution. Not content with this, it is an admitted fact, and worthy of all honor, that she has carried into effect the most perfect prison discipline in the world; and we have already witnessed the wise and the humane of Europe resorting to her shores to ascertain the art of subduing the rebellious passions of the worst of our race, without the aid of those sanguinary punishments which have so long disgraced the old world.

Thus has she expended millions of her money, and already has she erected a monument to the wisdom of her statesmen, more durable than any ever dedicated to the victor of a thousand fields.

Who are they who have contributed so freely, so generously to expenditures calculated to immortalize the State, and to establish its glory on so pure a foundation? Mainly the farmers of your country, the yeomen of the land, the tillers of the soil. Freely have they given, and joyfully have they paid, and most rich results have been the consequence of their enlightened liberality.

Is it then unfair to ask, what has been done by the Legislature for a class of its citizens so numerous, virtuous and meritorious? The stranger, when he sojourns in our land, and views all that has been done for the cause of science, for education in the higher branches of literature, for your common schools, for the reformation and punishment of crimes on a scale superior to any State in Europe, naturally inquires: Show me your agricultural school. You are essentially an agricultural people; a class of society who

have aided so liberally to the institutions of your State, must have received the constant and peculiar care of legislative protection and patronage, by forming their minds, their habits and their tempers to become the patrons of the noble monuments already erected, and which, while they shed lustre on your State, have placed her first among her sisters in the Union.

Shall we any longer be compelled to answer: We have no such institution; we have provided an ample revenue for all, but a complete course of *practical* instruction in agriculture. In almost every State in Europe, the attention of despotic governments has been called—nay, seriously and sedulously directed to the formation and endowment of schools of this description. There it is admitted the motive to a certain extent may be mercenary—to provide *food* for taxation. Here it is a *debt due from the State to a class* which, before they *asked for themselves*, have contributed to *all others*.

It is conceded by your committee, that to a certain extent farmers are not fond of innovations. If experiments are tried, they are too often limited to one or two. If they fail, it is condemned. That prejudices of this description are fast wearing away, we admit: but that they still exist, to a considerable extent, there can be no doubt. And a *gentleman farmer* is generally at hand, as an instance of a poor farmer. But it is not the intention of the committee to endow an institution to rear up and educate persons in the mere theory of husbandry. It is to combine practice with science; and if it should be said that this would be a school only for the children of the more opulent, the unanswerable argument is, that it is the same in regard to your colleges, and must be so of necessity. Still the results of such an education, practised upon in all parts of the State, must and will lead to the most beneficial results. A good example is worth a world of mere speculation.

In a school of this kind, under competent managers, there may be concentrated the best models of practice, in rural labor, known at home or abroad. The various breeds of domestic animals, the varieties of garden and orchard fruit, and the implements of husbandry, may be here satisfactorily compared, and their relative merits and advantages determined. Diversified experiments may be made in the various departments of husbandry, calculated to instruct and improve us in practice. Mechanical science, particularly what is

denominated *The Mechanics of Agriculture*, may be illustrated and taught in the best manner, in the shops, and on the farm. The application of science to the mechanic and manufacturing arts, has, in a wonderful degree, simplified their manipulations, abridged their labor, and rendered their results more certain. From what has already been done, we are not permitted to hesitate or doubt, but science will prove equally beneficial to agriculture. There is no business which embraces a wider range in natural science than this.

The laws which govern organic and inorganic matter, which influence the economy of the animal and vegetable kingdoms, it cannot be denied, have a controlling influence in the operations of the soil, and in the business of raising animals and plants. Education (practical education) is no where calculated to diffuse a more benign influence in society, than when bestowed on the farmer. He neither claims nor can exercise a monopoly. His improvements and his knowledge diffuse light around him, and are beneficial to all within the sphere of their influence.

Your committee feel assured, that if put into operation, this school will become, not only popular, but highly useful. To the pupil it will afford the most important advantages, besides instruction in the principles and practice of rural labor; which, of itself, confers the power of creating wealth. It will afford him the advantages of a *literary school*, qualify him for the higher duties of civil life, and give him withal, what is seldom acquired but in youth, habits of labor and application to business; calculated alike to promote his individual happiness, and the good of the State.

With such an education, combining personal labor for a practical knowledge of all the instruments of husbandry, and the mode and manner in which it is to be prosecuted, those scientific pursuits will be prosecuted with a certainty that the foot of labor is guided by the unerring results of experience, founded in and regulated by the laws of nature.

This school is intended to be purely agricultural. But in saying this, it will be necessary to open a course of instruction, combined with labor, which your committee venture to say, will be as interesting, and to the State, as valuable, as that which may be acquired in any other seminary. The different qualities of soil, as fitted for the various products of the earth; the use of compost and manures, as applicable to soils; the seasons for planting the re-

tation of crops, and the vast mass of practical information which enables man to transform a wilderness into a paradise, is worthy the pursuit of the *richest* as well as the humblest of the land.

Again, the importance of procuring, at all times and at fair prices, prime stock, of the best breeds of cattle, ought not to be omitted, either as an inducement to the Legislature, or as of the first importance to the people.

The question is, shall we endow a school, to which many would desire to send their children for the purpose of preparing them to depend in future life, on one of the most certain, and therefore the most happy of human pursuits; combining in itself, all the elements of constant, regular, and sagacious employment; and freed from the cares and corroding recollections, present or past, of the pursuits of a political life.

It is evident that law, divinity, and physic, are overstocked. The pursuits of commerce are laborious, and do not very often yield a return to persons of a moderate fortune and liberal education: as now educated, they are not fitted for farmers; so tenaciously do those early habits adhere to them, that the attempt at agriculture, is generally a failure. Your committee propose to give them a school, to which resort may be had for the cultivation of the mind, and the improvement of the person: Laying the foundation for future toils and pleasures, (for toils in agriculture are pleasures, when conducted to a successful result,) for future health and happiness, and preparing them to rear up a race, fit to transmit to posterity, the liberties we so highly cherish.

Your committee do not, in this report, enter into a detail of the expenditure necessary for this school. That is so fully treated of in the annexed report, to the Agricultural Society, that they could only repeat what is there stated. But they cannot close without remarking what must be obvious to all, how much skill and science may effect in agricultural pursuits.

Is there one of our body who has not seen, and remarked, the difference in adjoining farms, where *nature had made no difference* in the soil. It is this practical skill, this science, combined with labor, that they desire, (most anxiously desire,) to bestow on a rising generation; and they deem it their duty, most earnestly, to press it on the consideration of the Legislature, as called for by

every consideration due to the public welfare, to the true and lasting interests of the State: and as the last, but most substantial pillar in the varied edifice of her public institutions.

Impressed with this belief, and that the school recommended will, in many ways prove highly beneficial to the community, and persuaded that the State will ultimately be fully indemnified for her advances, your committee have prepared a bill in conformity with the prayer of the petitioners, which they have directed their chairman to ask leave to present.

## **REPORT**

**Of the State Agricultural Society, Albany, February  
14th, 1833.**

The committee appointed at the first meeting of the Society, to report a plan for an Agricultural School, with an estimate of the expense necessary to establish and put the same into operation; together with their views of such an establishment, beg leave to submit the following

### **REPORT:**

The main objects of the proposed school are, to impart to agriculture the efficient aid of the sciences, and to furnish it with the best models of practice; to teach, simultaneously, in the period of youth devoted to academic studies, the practical operations of husbandry, and such branches of useful knowledge as may tend to elevate its character and increase its products. The *plan*, therefore, should embrace,

1. A FARM, of sufficient extent to afford room for the diversified operations of tillage, cattle and sheep husbandry, and of orcharding and gardening—on a scale that will admit a fair comparison being made of crops, of breeds of cattle and sheep, and of the varieties of hardy fruits: and sufficiently diversified in soil and surface as to admit of satisfactory experiments:

2. A FARM HOUSE and FARM BUILDINGS, which may serve as models of convenience, taste and economy, and accommodate the head farmer and his assistants:

3. A SCHOOL BUILDING, for the accommodation of teachers and scholars:

4. A LIBRARY and PHILOSOPHICAL APPARATUS:

5. STOCK and IMPLEMENTS for the farm: and,

6. SHOPS for the construction of farm implements and machinery, for the use of the farm, for the illustration of mechanical sci-



ence, and to afford practical instructions to the pupils in mechanics.

These items of expense, which may be considered preliminary and permanent, together with the cost of the furniture required for the school building, are estimated at \$7,500.

1. The plan of education might embrace: Practical instructions in the various operations and labors of the farm, the garden, the orchards and the shops: and,

2. The study of the natural sciences generally, mathematics, mechanics, chemistry and drawing, so far as these may conduce or become subservient to agricultural improvement; together with such other branches of knowledge as will qualify the students for the higher duties of civil life—such as will fit them to become independent electors, discreet jurors, faithful magistrates, and wise legislators.

As prerequisites to admission to the school, the pupils might be required to possess a good common school education, to be at least fourteen years of age, and of good moral character. Four years might constitute a course of studies; and the internal regulations and police of the school might be conformed, in a measure, to those of our military academy.

A department of the farm should be set apart for experiments in husbandry, and the details and results of these experiments accurately registered. The garden and the orchard should contain all the good hardy fruits, and specimens of all hardy plants, that may be useful on the farm, in the arts, in commerce, or that are ornamental—in order that the relative value of different species and varieties may be determined, and their mode of culture and process of curing taught to the pupils, and the approved kinds furnished for public distribution.

To put the school into operation, there will be required—a principal, professors and teachers—a steward and servants, for the school:

A manager, laborers and assistants for the farm:

Machinists and assistants for the shops: and,

A practical and scientific manager for the garden and orchard.

The number of officers and assistants which will be required, must depend upon contingences: and of course the committee do not pretend to state with precision, in their estimate, the amount of their salaries and pay.

The proceeds of the school and the farm may be expected to increase for some years, and will materially depend on the terms of tuition. The committee have assumed, as reasonable data, that the number of pupils would average 200, and the average produce of the farm amount to \$4,000 per annum, for the first four years. Upon the assumed data, then, the estimate would exhibit the following result.

*Preliminary Expenses.*

Farm of 400 acres, at \$30, .....	\$12,000
Farm buildings, .....	6,000
School buildings, .....	25,000
Library and apparatus, .....	7,500
Stock and implements, .....	3,150
Shops and tools, .....	1,250
Furniture for school, .....	1,150
Incidental, .....	1,500
	<hr/>
Total preliminary expense, .....	\$57,550

*Annual Expense.*

Salaries of officers and teachers of the school, ..	\$5,100
do manager and laborers on farm, .....	1,000
do machinists, .....	600
do gardener, .....	300
Expense of boarding 200 pupils, at \$1,50 per week, .....	14,400
Servants for the establishment, .....	2,000
	<hr/>
Estimated annual expense, .....	23,400
	<hr/>
	\$80,950
	<hr/>

*The Annual Receipts are computed as follows:*

Board and tuition of 200 pupils, at \$150 per annum, ....	\$30,000
Produce of farm, .....	4,000
	<hr/>
	\$34,000
	<hr/>

Thus the total expense of establishing the school, and of maintaining it the first year, is estimated at \$80,950, and the income, after the first year, it is believed, will be amply sufficient to defray all expenses. Yet to meet contingences that may occur, and to make up for any deficiency in the estimate, the committee think that an appropriation of \$100,000, the surplus to be invested for the benefit of the institution, will ensure usefulness and permanency to the school, and prove amply sufficient to meet all its wants. This sum, if equalized among the population of the State, would operate as a tax of about *five cents* to each inhabitant.

Your committee have thus complied with the requisitions of the society, in submitting the plan of an Agricultural School, and an estimate of the expense necessary to establish and put the same into successful and permanent operation. It only remains for them to state their opinion of its utility.

The agriculture of a country affords the best criterion of its prosperity. Whether we compare kingdoms, states, counties, districts or farms, the condition of this branch of labor, which they severally exhibit, is a sure index, not only of the pecuniary, but of its moral condition. It is no less an axiom founded in truth, that agriculture prospers or languishes, in proportion to the science and skill of the men who manage its labors. It is not the natural fertility of the soil, so much as the intelligence and industry of those who till it, which gives to husbandry its interests and its rewards. The man who devotes the energies of a highly cultivated mind, to the improvement of this primitive and all-important branch of labor, is a public benefactor. Cincinnatus did more to immortalize his name, and to command our applause, by his love of rural labors, than by his military exploits. Washington, amid all the honors that irradiated his brow, sought his highest pleasures in the business and retirement of the farm. And it was the first remark of our present chief magistrate, to the writer, after introduction, that he would not forego the pleasures of the farm for all the honors and emoluments that this nation could confer upon him. Education enables man to appreciate the wonderful provisions which God has made for his happiness in rural life, and imparts to him the ability of diffusing instruction and happiness to multitudes around him.

It should be the policy of government, therefore, which watches over the interest of all, to infuse into the labors of husbandry, all the lights of science and knowledge—to take care to expand and elevate the minds of those who are to give it efficiency and character, and to call forth skill and industry by proffered rewards.—With us these considerations possess peculiar force. Our population and business are emphatically agricultural, and every aid which is extended to this class, benefits, indirectly, every portion of the community. Agriculture constitutes the fountains of the thousand rills, which, swelling and traversing every part of the State, propel the spindle and the hammer of the artizan and the manufacturer, and finally, by their union, make up the mighty stream of commerce which unceasingly flows into the Atlantic.

That our agriculture is susceptible of improvement—that the products of its labors may be doubled, nay quadrupled, must be apparent to those who have compared our husbandry with that of some European countries, or who have contrasted, at home, the well cultivated district, or farm, with those which are badly managed. How is the desired amelioration to be effected? How can a better husbandry be so well promoted, as by teaching it to our youth?—by sowing our seed in the spring-time of life? Prejudice no where retains a stronger hold than among farmers who have approached or passed the meridian of life. While some retain old practices, for want of confidence in their knowledge to guide them to better ones, others lack the first requisites to improvement—a consciousness that their system is not the most useful; while not a few are influenced, in their hostility to public means of improvement, by the desire to keep things to their own level. If we would efficiently improve this great branch of business, and elevate its character, as well as the character of those who are engaged in its operations, we must do what universal experience has shown to be the only sure method:—we must lay our foundation in the rising generation—we must teach the young idea how to shoot—we must instruct the head to help the hands. Our physical and mental powers are twin sisters. They lighten each other's labor, and mutually impart a zest to each other's enjoyments. And as it is becoming common to introduce manual labor into literary schools, it is courteous that literature and science should requite the civility, by associating with the inmates of schools of labor.

Agricultural schools, although of modern date, have nevertheless been established in most of the States of Europe, and their uti-

lity has been fully demonstrated. Who has not heard of the school of Fellenburgh, at Hoffwyl, or of Von Thayer, at Moegelin—to which young men are sent from every part of Europe, and even from America? In France and Prussia, agricultural schools have been founded and maintained by the governments. If they are found to be beneficial, and worthy of governmental support, in countries where power is vested in the few, how much more salutary must they prove here—where our institutions receive the impress of their character from the many, and where the perpetuity of these institutions depends emphatically upon the intelligence and virtue of the agricultural population. Despotism will never flourish in American soil, but through the ignorance, and we may say consequent depravity, of its cultivators.

Your committee recal to recollection, with feelings of pride, the munificent benefactions of the Legislature, to advance the literary character of our State; and the fact, that comparatively nothing has been done, legislatively, to improve our agriculture, which employs five-sixths of our population, can only be ascribed to the fact, that nothing has been asked for—nothing thought of. Our public colleges and academies, for literary instruction, are numerous and respectable. They meet our eye in almost every village. But where are our public schools of labor? Where is the head taught to help the hands, in the business which *creates* wealth, and which is the grand source of individual and national prosperity and happiness? Our literary and professional schools have been reared up and sustained by the expenditure of more than two million of dollars from the public treasury, and they continue to share liberally of the public bounty. It will not, however, be denied, that the benefits which they dispense are altogether partial,—that the rank and file of society, destined by heaven to become the conservators of civil liberty, are virtually denied a participation in the science and knowledge,—in the means of improvement and of happiness which they are calculated to dispense. Is it not a mandate of duty, then, as well as of expediency, that the benefits of public instruction should be more generally dispensed? We hazard not the fear of contradiction in assuming, that if a moiety of public moneys, which have been appropriated to literary schools, had been judiciously applied, in rendering science subservient to the arts, and in diffusing the higher branches among the laboring classes, the public benefits from the appropriation would have been far greater than they are at the present day. How many hundreds may now be pointed out, of liberal education, who are mere cyphers in society, for

want of the *early habits of application and labor*, which it is the object of the proposed school to form and infix ! And how many, for want of these habits, have been prematurely lost to their friends, and to a purpose of usefulness for which man seems wisely to have been created—that of doing good to his fellows.

From a full conviction that the interests of the State not only warrant, but require, an appropriation of public moneys to this object, your committee beg leave to recommend to the consideration of the Society the following resolution:

*Resolved*, That a respectful memorial be presented to the Legislature, in behalf of this Society, and of the great interest which it represents, praying that suitable provision may be made by law, for establishing a school of agriculture, on the plan recommended in the preceding report; and that the co-operation, in this application, of societies and individuals, friendly to the object of the petition, be respectfully solicited.



## **AN ACT**

### **To incorporate the New-York Agricultural School.**

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*

1 SECTION 1. That it shall be the duty of the Comptroller,  
2 after the passing of this act, to issue certificates of stock to the  
3 amount of \$100,000, bearing an interest of 5 per cent, and re-  
4 deemable twenty years from and after their date; which stock  
5 shall be sold at public auction in the city of New-York, to the  
6 highest bidder, and on which the interest shall be paid quarter-  
7 ly, in the manner now provided by law relative to the other  
8 stocks of this State.

1 § 2. That three Commissioners shall be appointed by the  
2 Governor, to purchase a farm, to contract for the erection of  
3 suitable buildings for a school adapted for the accommodation  
4 of two hundred pupils, officers, and servants, and for the farm.  
5 That they shall give bonds with competent sureties, to the sa-  
6 tisfaction of the Comptroller, for the faithful expenditure of  
7 the money, receive a compensation for their daily services, and  
8 account to the Comptroller for such expenditures; and to whose  
9 order it shall be the duty of the Comptroller to pay, at the  
10 most,                                    thousand dollars, to be expended in the  
11 work.

1 § 3. There shall be seven trustees, who shall be designated as  
2 "The Trustees of the New-York Agricultural School," to be  
3 appointed by the Governor, by and with the advice of the Se-  
4 nate; who shall be removable by the appointing body. They  
5 shall manage the concerns of the institution: one of the trus-  
6 tees shall be the treasurer of the board; and he shall give bonds  
7 for the faithful disbursement and payment of all moneys in his  
8 hands; and he shall receive such compensation as a majority  
9 of the trustees may direct, not exceeding                                    dollars.  
10 The trustees shall have power to employ a principal and teach-  
11 ers, overseers, laborers, and assistants; to receive tuition and  
12 all other moneys, belonging to the institution, and to pay the





**No. 80.**

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**IN SENATE,**

**March 18, 1833.**

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**REPORT**

**Of the committee on canals, on the petition of E. C. Genet and others, relative to a ship canal from Albany to the deep waters of the Hudson.**

The committee on canals, to which was referred the petition of E. C. Genet and others, inhabitants of the counties of Rensselaer and Albany, praying for the incorporation of a company to construct a ship canal from Albany to the deep waters of the Hudson, below New-Baltimore,

**REPORTED:**

That they have given to the subject that attentive consideration which its vast importance seemed to require at their hands. Experience has shewn that nature has interposed obstacles in the way of the navigation of this noble stream, which require removal or avoidance, by the art of man, in order to free our commerce from obstructions materially detrimental to the general interests.

The Hudson river, at and above Albany, is the point of termination for our canals; and it would seem to be necessary that the navigation, if possible, should be rendered free from all impediment. When we take into consideration our geographical position, the immense and rapidly increasing trade of the States and Territories which lie to the west and southwest of us, we can not but be forcibly impressed with the necessity of so improving the navigation between the points mentioned in the petition, as to make it the interest of the enterprising population of that fertile region to seek an outlet to the ocean through our artificial channels of communication.

So forcibly impressed were the Legislature of 1819, with the importance of permanently improving this portion of the navigation of the Hudson, that a special commission, consisting of the late Governor Clinton, Simeon De Witt, J. V. N. Yates, Martin Van Buren, Edmond C. Genet, George Tibbits and Townsend M'Coun, was created to make the necessary surveys and examinations. Their report will be found in the Assembly Journals of 1820. Since that time the plan for a permanent improvement of the navigation, by the State, seems to have slumbered, and been almost forgotten. Small appropriations have been made, and attempts to remove particular obstructions. That such limited efforts must always prove ineffectual, we have every reason to believe, both from the results of experience and the nature of the impediments.

The commissioners, after a laborious examination, indicated their preference for a ship canal; but not in such decided terms as should preclude further investigation. The plan of their engineer for improving the channel of the river, though specious was defective, and threw but little light upon the subject; and hitherto, with but one exception, theory seems to have usurped the place of facts. The survey of Col. Clinton, 1832, was minute, and his report presents us with much valuable information; but, in the opinion of the committee, is not sufficiently full and satisfactory to warrant the adoption of his plan. The question, whether it would be better to improve the navigation by works in the river, or by a canal, is still undecided. The commissioners say, "the methods which have been suggested as practicable, for improving the tide waters of Hudson's river, are either the construction of piers and dams, in such places as may be proper to concentrate the current of the river, so as to give it, with the assistance of an engine called a mud turtle, where necessary, power sufficient to remove the bars on which it may be directed, and to prevent future deposits, or avoiding them by a lateral canal, or by a combination of both." Towards the conclusion of their report they add, "and, if in the present instance it should be judged that the benefit to be derived from it, [the lateral canal,] is of sufficient magnitude to make its adoption advisable, the commissioners do not hesitate to recommend it as the most efficient plan for improving the navigation of the Hudson river below Albany. No extraordinary obstacles are presented to its execution, and its track indicates facilities which were not

anticipated before it was minutely explored." In another part of the report the commissioners, who were some of our most intelligent and patriotic citizens, observe with truth, and in emphatic language, that "they were impressed with the belief, that effectually and permanently to become disembarrassed from the impediments to navigation in the tide waters of the Hudson, was considered by the Legislature, as they themselves do consider it, of such importance that no expense to effect it will bear any proportion to the advantages to be derived from it; and if not immediately, yet at all events, at no distant period of time, the paramount interest of the country will so imperiously call for it, that it *must* be accomplished in the most effectual manner."

With the foregoing views of the commissioners, the committee fully concur, and they will venture to express an opinion that the time has arrived, when the Legislature should adopt measures for acting decisively on the subject.

Since the report of the commissioners our canals, then scarcely in embryo, have been completed, and we have had an opportunity of witnessing the unparalleled increase of our internal as well as external trade. Some of our sister States, observing the multiplied advantages which we derived from our system of internal improvement, as exemplified in the increase of population and accumulation of wealth, determined to become our competitors for the trade of the west. Hence originated the expensive undertakings of Pennsylvania, and the encouragement given to private companies by the enterprising State of Maryland. Canada, too, has aroused her slumbering energies, and by the assistance of the mother country, with the aid of the Welland canal, and contemplated improvements of the St. Lawrence, is determined to divert a large portion of trade from our canals and commercial cities. Such being the case; finding ourselves environed by friendly and national rivals; without stopping to calculate the probabilities of their final success, as we are now situated, it would be wise to render our security perfect, by improving our great natural channel of communication with the ocean.

The committee, besides examining the various documents submitted to them, deemed it expedient to call before them a number of intelligent citizens, experienced in the navigation of the Hudson. From their examination the committee ascertained that the ob-

structions in the river amounted, on the average, to a total stoppage of one month, of all vessels over one hundred tons burthen, in every year. The serious injury that must arise from such an obstruction to the commerce of the Hudson, and consequently to the western portion of the State, seems to demand from the Legislature an immediate remedy. The gentlemen whom the committee examined were of opinion, that the better plan permanently to improve the navigation of the Hudson would be to adopt the system of Col. Clinton, and to confine the waters of the river, by means of longitudinal docks and dams, which would increase the current and straighten the channel. This they contended would, of itself, clear the bars, which were an accumulation of alluvions upon hard-pan, and leave the navigation free; at any rate, it would prevent accumulation after the bars had once been removed by means of the dredging machine. In proof of this position, they stated that where the channel had been cleared by the machine, in pursuance of the law of 1827, it had not again been filled up by the freshets, which, by means of the creeks, brought down the alluvions of the surrounding country to the waters of the river. On the other hand, Mr. Genet, the petitioner, contended that the navigation of the river must always remain imperfect, from the nature of the stream itself; that the work would be expensive, and uncertain in its results; that, if the increased current, produced by docking, should remove the alluvions which form the present bars, new ones would be formed below the termination of the works, which would as seriously impede the navigation as those now complained of; and that, neither by contraction or excavation, a sufficient and permanent depth and width would be obtained for the navigation of sailing vessels of all descriptions; but that the contemplated canal would render the navigation forever safe and expeditious.

The committee, with the information they have before them, will not attempt to decide between these conflicting opinions. Since the examination by the State commissioners, material changes have taken place, in the channel of the river, produced partly by natural causes, and partly, as they are informed, by the docking in front of the Albany basin, and the filling up of the bed of the river in front of the lower part of the city. It would seem, therefore, to be necessary, before any decisive step is taken, that there should be a re-survey and examination, not only of the route of

the proposed canal, but also of the river, with a careful and accurate estimate of the expense of both modes of improvement, with their relative permanent advantages. Such surveys and estimates will furnish satisfactory data, on which the Legislature may hereafter act with a full knowledge of the subject. The committee would also suggest a doubt whether it would be expedient, at this time, to permit so important a portion of our navigation to pass into the hands of a private company. To the State of New-York a cheap and certain outlet to the ocean is of paramount importance, as it enhances the price of our agricultural products, and at the same time cheapens the foreign articles of consumption. It would, therefore, at least be wise first to ascertain the practicability and expense of the improvement, with a view to decide upon the ability of the State to undertake it, and the propriety of engaging in the work.

There is a survey of the river, by Col. De Witt Clinton, U. S. topographical engineer, which was submitted to the House of Representatives, on the 30th of March, 1832. The project received the favorable consideration of Congress; but in consequence of its being improperly connected with other improvements, the appropriation did not receive the sanction of the President. It is not, however, improbable, should the State adopt a plan for the permanent improvement of the navigation of the Hudson, either by canal or otherwise, that the general government would be willing to contribute liberally to the accomplishment of the undertaking.

With this view of the subject, the committee would suggest the propriety of directing the Canal Commissioners to employ an able and experienced engineer, to make the necessary surveys and estimates, during the ensuing summer, to the end that a full report be made to the next Legislature, at the commencement of the session.

The profound attention which has been given to this important subject, for a number of years past, by Edmond C. Genet, Esq.; the extensive knowledge which he has acquired in relation to it; his indefatigable and public spirited exertions to advance the commerce and general prosperity of the State by forwarding this highly important improvement, seem to point him out as a proper person to be associated with the commissioners, to assist in directing the necessary surveys and examinations. Should the canal be

eventually adopted, either as a State work or by a grant to a private company, this distinguished citizen is unquestionably entitled to the credit of being its projector, and should not be deprived of his just share of applause in forwarding its completion.

The committee ask leave to introduce a bill to carry into effect the plan which they have suggested.

JOHN F. HUBBARD.

**No. 81.**

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**IN SENATE,**

**March 15, 1833.**

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**ANNUAL REPORT**

**Of the Trustees of the Seamans' Bank of Savings in  
the city of New-York.**

The Trustees of the Seamans' Bank of Savings in the city of  
New-York, in conformity with the requisitions of the law,

**REPORT:**

That there has been received at the bank during the year ending 31st Dec. 1832, from 503 depositors,	<b>\$75,878 58</b>
Of these 146 are new accounts, and 256 re-deposits.	
The amount of interest collected during the same period has been, .....	<b>3,606 88</b>
Amount accruing from the sale of Ohio State stock, disposed of by order of the board, .....	<b>11,891 51</b>
Which together with the balance in the treasurer's hands at the close of the year preceding, .....	<b>20,941 92</b>
Constitutes the whole amount to be accounted for the last twelve months, .....	<b>\$111,818 79</b>
Of this amount, there has been paid to depositors, ..	<b>\$64,437 40</b>
Invested in United States stock, .....	<b>7,746 11</b>
For stock of the State of New-York, .....	<b>16,337 64</b>
Disbursed for expenses incident to the conducting of the establishment, .....	<b>880 45</b>
Leaving a balance not permanently invested on the 4th Jan. 1833, of .....	<b>22,417 19</b>
Total, .....	<b>\$111,818 79</b>



Since the opening of the bank in May, 1829, that is for a period of 3½ years or thereabouts, the whole number of deposits has been 1,465, from whom the

total amount received, is .....	\$223,494 47
Amount of interest collected during the same period,	7,947 51
Profit accruing on stock sold, .....	701 82
Total of receipts for the 3½ years, .....	<u>\$232,143 80</u>

In the same period the total amount repaid has been,	\$143,090 39
Expenses of the institution, .....	1,867 40
Invested in stocks, .....	64,768 82
Amount on hand uninvested, .....	22,417 19
Total, .....	<u>\$232,143 80</u>

The actual assets of the bank on the first day of January, were as follows:

Stocks held by the bank, viz:

Ohio State 6 per cent, .....	\$6,075 00	
" 5 " .....	10,212 62	
		<u>\$16,287 62</u>
Corporation city of New-York, 5 per cent, .....	6,718 25	
New-York State, 5 per cent, .....	16,337 64	
" 4½ " .....	11,579 20	
		<u>27,916 84</u>
United States, 5 per cent, .....	6,651 58	
" 4½ " .....	7,194 53	
		<u>13,846 11</u>
Amount on hand uninvested, .....	22,417 19	
Total, .....	<u>\$87,186 01</u>	

Of this amount there was on the same day due to depositors, .....	\$86,707 29
Leaving a balance in favor of the bank, of .....	478 72
	<u>\$87,186 01</u>

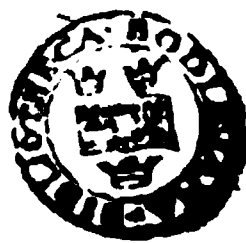
The trustees have further the satisfaction to report, that since the closing of the accounts for the year, the board have been enabled to credit a rate of interest of five per cent per annum, to such accounts as by the rules of the bank are entitled to the same. It is however desirable that more latitude should be given to the board for its investments, as on account of the present high price of public stocks, it may be perhaps impracticable to continue the payment of the same rate of interest under the existing restrictions of the charter. The success which has attended the institution, notwithstanding this embarrassment, and the daily evidence of its utility, affords encouragement to believe, that provided a fair rate of interest can be continued to the customers of the bank, the habits of economy so desirable in the class of persons, who are the objects of this establishment, will be more and more induced, and that this effort in behalf of the individuals themselves, as well as of their families, will not be unavailing,

By order of the Board of Trustees.

N. TAYLOR, *President,*

C. BARSTOW, *Secretary.*

*New-York, March 12, 1833.*





**No. 82.**

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**IN SENATE,**

**March 18, 1833.**

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**REPORT**

**Of the committee on claims, on the petition of the purchasers of lots in the village of Oneida Castleton, for a re-appraisement of those lots, and a liquidation of their accounts with the State.**

The committee on claims, to whom was referred the petition of the purchasers of lots in the village of Oneida Castleton, praying for a re-appraisement of said lots, and a liquidation of their accounts with the State accordingly,

**REPORTED:**

This subject is no doubt familiar to many members of the Legislature, as it has been frequently and recently before them, and was reported upon favorably in the Assembly of last session. The committee, therefore, instead of recapitulating all the particulars of the case, will, for a more full statement than this report contains, refer to the Journals, where the proceedings of former sessions will appear.

The Assembly Journals of 1829, page 300, contains a full report of the case, made by the committee on public lands of that body, and a bill in favor of the petitioners passed that branch of the Legislature, by a large vote. In subsequent sessions, the subject was again favorably reported upon, and sometimes a bill passed through one of the branches of the Legislature.

At the last session a select committee of the Assembly, to whom the subject had been referred, reported a bill in favor of the petitioners. See Assem. Doc. of 1832, No. 21.

This bill was referred to the Commissioners of the Land-Office; and their report will be found in the same Documents, No. 238, to which the committee particularly refer.

With these references, which will enable the members to become acquainted with all the necessary particulars, the committee will only give a general view of the case.

It appears that a part of the Oneida Reservation, now known as Oneida Castleton, being the property of the State, in 1813 was surveyed and laid out into lots, as a suitable site for a village; and in 1815 the State caused the lots to be appraised, and minimum prices fixed, below which they were not to be sold.

The surveyor who planned the laying out of the village, made a survey and map of the same, on which was laid down a public square, a short canal to connect Oneida creek with the Erie canal, and also mill privileges well calculated, as the petitioners say, to induce purchasers to believe that the place was soon to become a flourishing village. In reference to this survey, the lots were appraised in 1815, and by an exhibition of the same, the lots were advertised and put up at a public sale on the 18th March, 1817, when the petitioners attended and bought the lots in question, which they now ask to have re-appraised.

The lots were bid off at various prices; none below, but generally above the appraised value.

The petitioners allege, that they were influenced in buying the lots at the high prices at which they were struck off, by the flattering prospects presented by the State, as to the future growth and prosperity of the newly laid out village; and there are reasons for believing that these considerations had their influence on the minds of the purchasers, as well as the appraisers, in fixing the value of the said lots.

It is undoubtedly true that none of the improvements laid down on the map has ever been made by the State, or by the purchasers. Nor is there any evidence that the State, or any of its officers, gave any assurance or promise that they would or would not be made at the expense of the State.

Whether the State has abandoned any intention they may have originally entertained, as to any improvements in order to enhance

the value of their property at this place; or whether the purchasers have failed to apply their native energies in promoting the prosperity of the village, does not appear; but it is no doubt true, that the lots have depreciated in value, the village fallen into disrepute, and the ground of no more value than other ground in the vicinity for agricultural purposes.

It is unnecessary for the committee to remind the Legislature of the importance of the rule which holds every person to a strict compliance with his contract with the State. It is generally a safe and always a sure rule, in settling the question of abstract right. But it does not follow that there may not be cases connected with the State, as well as between individuals, in which the rule would operate against the common principles of equity and justice. When such a case presents itself, it is as much the duty of the State as it would be of a court of equity, to give relief against the strict letter of the bond.

The question in this case is, are the circumstances such as will justify the Legislature in interfering with these contracts, by extending relief to the petitioners? Without pursuing a train of reasoning on this subject, it may be sufficient to say, that the State have heretofore opened these contracts, and put on record the strongest evidence to shew that the petitioners have cause to complain of hardships, if not injustice.

In 1822, the Legislature granted a partial relief to the petitioners, by reducing the prices in the agreements of those who bid above the appraisement of 1815, down to the standard of that appraisement.

As the State remained the owner of a number of these lots in Oneida Castleton, which they were unable to dispose of at the fixed prices, either at public or private sale, a re-survey was ordered of such lots in 1827, and the result was a reduced valuation, to an average of less than one-third of the prices fixed by the appraisement of 1815. And according to this last valuation, the unsold lots of the State were disposed of. It is stated that in one case a mill site in 1815 was appraised at \$5,000, but in consequence of the canal not having been made, or for some other cause, the value was reduced to \$1,500.

On the 17th February, 1817, one month before the petitioners bought the lots in question, the Canal Commissioners made a report to the Legislature, in which they say, "a feeder of two miles and seventy chains may be introduced from the Oneida creek; and it may be made navigable, as a lateral canal, to Oneida Castleton, owned by the State. In all probability no water from the Oneida creek will be wanted for the canal; but considering that the State lands at the village and in its vicinity will be trebled in value by this canal, it will be an object to make it on that account only."

The Commissioners of the Land-Office say, that some (of the purchasers) may have been influenced by the views of the Canal Commissioners expressed in this report.

This information was before the public about one month prior to the sale of the lots in question, and coming from State officers was well calculated to have an effect upon the public sale about to take place.

Under all circumstances, the committee have come to the conclusion to recommend a re-appraisal of the lots in question, and a settlement with the petitioners upon the principle of the same. They ask for leave to introduce a bill.

**IN SENATE,**

**March 22, 1833.**

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**REPORT**

**Of the committee on canals, on the petition of Harvey Edwards and others.**

Mr. Armstrong, from the committee on canals, to which was referred the petition of Harvey Edwards and others, together with the report of the Canal Commissioners thereon,

**REPORTED:**

The petitioners represent that they are the proprietors of a canal which was constructed by individuals, from the head of the navigable feeder constructed by the State, to the north branch of the Seneca turnpike road, a distance of about one-fourth of a mile, which canal is navigable, has one wooden lock, and was constructed at an expense of about three thousand dollars.

The petitioners pray that a law may be passed authorising the Canal Commissioners or other agents of the State, to take a grant or conveyance to the State of the interest of said proprietors in said lock and canal, that the navigation may be free and uninterrupted from said turnpike road to the Erie canal.

The Canal Commissioners say in their report on this subject, that the same rate of toll is charged upon that part of the Limestone creek feeder, which was constructed by the State, as upon the other navigable canals. That if the proprietors of the lock and canal which when constructed by individuals should release their interest to the State, toll would likewise be charged upon that part of the feeder. They also say, that if they were satisfied that tolls sufficient to keep this part of the feeder in repair would be received from it they would not hesitate to recommend that the



State should take the title to it from the proprietors and adopt it as part of the public works: but they do not believe that the amount of tolls upon this part of the feeder would be sufficient for that purpose. They also say, that some expense will have to be incurred to put the works in repair; and they suggest that if the State take these works, it should be upon condition that they are put in good repair by the proprietors, and that they construct a towing path by the side of the canal.

If your committee understand the prayer of the petitioners, it is, that they be permitted to assign their works to the State in their present condition, and that they be permitted hereafter to navigate the said canal free from expense.

Your committee are therefore of opinion, that if the Legislature should pass a law authorising the petitioners to release the canal and the works connected therewith to the State, agreeable to the suggestions of the Canal Commissioners, it would not be satisfactory to the petitioners. They therefore recommend that the petitioners have leave to withdraw their petition.

**IN SENATE,**

**March 22, 1833.**

---

**REPORT**

**Of the committee on canals, on the petition of Ogden Mallory.**

Mr. Hubbard, from the committee on canals, to which was referred the petition of Ogden Mallory,

**REPORTED:**

That all the additional testimony produced in favor of his claim, is a letter from William Jerome, the engineer, and a certificate from the canal office. Mr. Jerome, in his letter, states: "So much time has elapsed since you constructed the locks on the Oswego canal, that it is quite difficult, if not impossible, for me to make an intelligent statement about them, unless I were at Albany, where I could have access to the book I transmitted to the Comptroller's office, and also see the minutes of my testimony, which was given before the Canal Board in your case." He further states that the contract price of the locks was \$29,750, and that he finds entered in a canal book which he has at home, that the worth of the locks was \$35,050.

The certificate from the canal office shews that the contract price was \$29,840; that the estimated value of the work was \$37,500, making a difference of \$7,660. The Canal Board adjudicated upon this case, and made the petitioner an allowance of \$3,805.43. The balance of his claim, therefore, is \$3,854.57.

There may be some hardship in this case, and it is probable that the petitioner lost money by his job; but that he acted under any erroneous impressions as to the nature of the work, is expressly contradicted by the Canal Commissioners, as mentioned in our for-

mer report. The Canal Board, when the whole subject was before them, made him such allowance as they deemed just, and the committee do not feel disposed, at this late day, to disturb their decision, upon the testimony which they have before them. They therefore recommend that the petitioner have leave to withdraw his petition.

**IN SENATE,**

**March 23, 1833.**

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**REPORT**

**Of the committee on state prisons.**

The committee on state prisons,

**REPORT:**

That it appears, from the annual reports of the Auburn and Mount-Pleasant state prisons, that those institutions have been faithfully conducted during the past year, and with increased utility and success. At no time have their financial operations exhibited a more promising appearance.

At the Auburn state prison, two hundred and twenty additional cells have been erected, which cost, besides the labor of the convicts, the sum of \$12,376.36. This expense has been defrayed out of the funds of the prison, and without any call upon the treasury. The sum of six thousand dollars, appropriated at the last session of the Legislature for that object, remains, therefore, untouched. The profits of this prison, during the past year, after deducting its expenses, amount to \$3,588.16; and the cash on hand at the close of the fiscal year, was \$2,899.07, over all its expenditures and erections to that period.

In the construction of the above named additional cells, it became necessary to enlarge that part of the south wing of the prison, in which they are erected, by widening it twelve feet. The inspectors now request permission to increase the residue of this wing to the same width, for the purpose of enlarging their mess-room, and to enable them to construct over it a chapel of sufficient dimensions. The roof and floors of this part of the building are represented to be so much decayed, as to require immediate re-

pair. The whole expense of this improvement is roughly, perhaps rather largely, estimated at \$6,000; but as the prison will possess from its own resources the means of making it, no appropriation is asked from the treasury. The inspectors say, "we consider this further alteration and improvement indispensable to the security of the building; and for the accommodation of the convicts in respect to the mess-room, chapel, &c: and as the expense may now be met by the avails of the prison, we can perceive no object in its delay."

The affairs of the state prison at Mount-Pleasant, as compared with former years, seem also to be not less prosperous. Instead of an appropriation of thirty thousand dollars, which has heretofore been annually required for the support of that prison, for the present year the inspectors only ask the sum of \$11,482.78. And the objects of this amount are especially stated to be, for money now due to the corporation of the city of New-York, for keeping the female convicts, \$4,595.39; for the probable expense of the same during the passing year, \$4,200; for a sum due for the transportation of convicts to the Auburn prison, \$900; and for amount required to pay for necessary building materials, for certain improvements to be made during the current year, \$1,787.39.

The prevalence of Asiatic cholera at this prison, during about two months of the most useful season of the past year, suspended its operations and entirely interrupted its productiveness for that period. The loss thus sustained to the prison is estimated by the inspectors at not less than one-sixth of the whole earnings of the convicts for the year.

It is also stated that a great portion of the season has been taken up in finishing the old and unfavorable contracts, so often heretofore alluded to, by reason of which a very inadequate compensation has been received for the labor of the convicts. These old and ruinous contracts are represented to be now nearly completed, and contracts at a fair price to have been made, which will occupy the convicts during the current year. Under these circumstances, it may be reasonably expected that this prison will hereafter support itself. This committee cannot doubt but that if the female convicts are provided for, no further appropriation will be required for it. On the contrary, unless some calamity shall befall it, they are of the opinion that it will soon produce a yearly

income, over and above supporting itself, and will thus commend itself equally with the Auburn state prison, to the confidence of the community.

The chaplain of this prison receives for his services now, only four hundred and fifty dollars a year. As he devotes the whole of his time and attention to the discharge of his duties at the prison, the inspectors express their opinion of the inadequacy of the compensation, and suggest the propriety of increasing it to six hundred dollars. This committee agree entirely in the above opinion, and concur in the recommendation.

The farm connected with this prison cannot now by law be let for a longer period than three years. But we are informed, by letters from the agent and inspectors of the prison, that it would be beneficial to the farm, and advantageous to the State, if the same could be leased for a longer term. The committee therefore recommend that the law be so modified that the farm may be let for a time not exceeding ten years.

There is a piece of land adjoining the State farm, and lying between a part of the same and the Hudson river, which the inspectors and agent of the prison recommend the State to purchase. It contains some good marble, is so situated that they are now obliged to cross it from one of their best quarries, and in many respects its possession would be convenient for their operations, and always valuable to the establishment. This land, it is believed, may be purchased at a fair price, or had in exchange for other land belonging to the State, which is of no particular value to the prison. This committee advise, therefore, that the agent and inspectors be authorised to contract for the same, subject to the final decision of the Attorney-General and Comptroller of the State.

It appears by the last annual report of the Comptroller, (Assembly Documents of 1833, No. 5, page 32,) that the accounts of the late agent of the Mount-Pleasant prison, have remained in an unsettled state, in consequence of a discrepancy between the accounts of the commissioners for building that prison, and those kept at the office of the Comptroller. During the past year, an entire examination and careful comparison of these accounts, as kept at the prison and at the office of the Comptroller, have been made, and the causes of the difference of the two accounts have

been discovered, as well as the origin of the balance against the agent. He was charged, it seems, by the commissioners, with the proceeds of some provisions belonging to the prison, which had been sold to the ration contractor, Mr. E. Wilson, amounting to \$743.94. If this sum was received by the agent, he will owe to the State a balance of \$455.45. But if, on the contrary, as he alleges, and as appears to be confirmed by the statement of Mr. Wilson, the above sum of money did not come to his hands, then there will be due from the State to the late agent, the sum of \$288.49, being an over-payment made by him. Mr. Wilson repeats to this committee, that he is confident he never paid to Mr. Lynds any money for the provisions referred to; but that the same were paid for by him in other rations furnished to the prison. Beyond these averments of the agent and of Mr. Wilson, there is no evidence further to explain the subject. The committee are inclined to believe that the above named provisions were never paid for to Mr. Lynds, and that the State is indebted to him in the sum of \$288.49. They therefore recommend that the same be allowed to him out of the treasury.

As some doubt has heretofore been expressed, as to the profitability of working the marble at the Mount-Pleasant state prison, the following satisfactory remarks are copied from the last annual report of the able and faithful inspectors of the same.

“The great inducement,” say they, “for locating the prison at this place, was the immense quantity of marble which is found on the State farm, connected with the belief that the convicts might be more advantageously employed in preparing this article for market, than at any other kind of business. The quarries have at different times presented discouraging indications; sometimes the quality of the marble has been indifferent, at other times the great difficulty in removing the immense quantities of earth under which the marble was buried, seemed to destroy the prospect of a profitable employment at the stone business.

“Within the last year a decided improvement has appeared in the quarries, and they now bid fair to satisfy the expectations which induced a selection of this place for the prison. The quality of the marble is good; its value is now appreciated in the market, and contracts at a fair price are now offered, sufficient to employ the great mass of the convicts, and we have no doubt but the

proceeds from the labor of the convicts at the stone business, for the ensuing year, will fully prove this to be the most profitable business at which they can be employed."

The committee have prepared a bill in accordance with the previous suggestions, which they ask leave to introduce.

ALLAN MACDONALD,  
*Chairman.*





**IN SENATE,**

**March 23, 1833.**

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**REPORT**

**Of the select committee on the bill from the Assembly, entitled "An act for the erection of a court-house in the county of Kings."**

Mr. Sherman, from the select committee consisting of the separators of the first senate district, to whom was referred the bill from the Assembly, entitled "An act for the erection of a court-house in the county of Kings,"

**REPORTED:**

That they have had the subject matter referred to them under consideration, and have examined the same, together with certain resolutions and proceedings of the board of supervisors of said county; also several petitions and remonstrances on the same subject, which have been received by the committee since the bill came from the Assembly. They have likewise heard the statements and examinations of respectable individuals deputed for that purpose, and representing inhabitants of the said county on both sides the question submitted to the committee.

It appears that the county of Kings has been for the last seven or eight years, in a manner half shired, having two places for holding its courts; the one at the old court-house of the county, situated at Flatbush, and the other at the apprentices library in the village of Brooklyn. In consequence of the late destruction of the old court-house at Flatbush by fire, there have been two public notices given, and two applications presented to the Legislature on the subject; one for the erection of a court-house and jail, in the village of Brooklyn, to be the only court-house of the county, the

other to erect a court-house and jail at Flatbush, on the site of the one lately burnt down.

There are six towns in the county of Kings, two of them, Brooklyn and Bushwick, being the northeastern towns of the county, unite in favor of the court-house to be located in the village of Brooklyn. The four other towns, Flatbush, Flatlands, Gravesend, and New-Utrecht, being principally agricultural towns, unite in favor of a court-house at Flatbush, on the former site.

On the third of January last, the subject was taken up by the board of supervisors of the county, and they decided and passed a resolution accordingly, by a vote of four to two in favor of the court-house at Flatbush.

Brooklyn and Bushwick dissenting from this decision, have presented their claims in a strong petition signed by about 1,300 inhabitants, and fortified by resolutions of the president and trustees of the village of Brooklyn, and resolutions passed at a town-meeting assembled for that purpose. They likewise urge the granting of their application by arguments founded on the weight of population, which is greatly in their favor; there being about 17,000 inhabitants in the village of Brooklyn and Bushwick, and about 3,500 in the other four towns. The amount of taxable property, as between them, bears about a corresponding ratio.

On the part of the towns, there has likewise been presented a strong petition in favor of Flatbush, containing the signatures of about 700 names.

The county being thus divided in opinion, the board of supervisors again assembled together on the subject, for the purpose, as would appear, of endeavoring to compromise this exciting subject, by recommending a course, calculated in their opinion, to satisfy both parties. The result was, a resolution that there should continue to be two court-houses in the county, one at Brooklyn and one at Flatbush, the two places where the courts of the county have been formerly held. That Brooklyn and Bushwick should form one jury district, and the four towns of Flatbush, Flatlands, Gravesend and New-Utrecht should form the other, and that each district should build a court-house at its own expense. That Brooklyn and Bushwick be permitted to raise by tax on their inhabitants, the sum they ask, 25,000 dollars; and the other four

towns be permitted to raise the sum of eight thousand dollars on their inhabitants for the purposes aforesaid. Jurors are not to be taken from one district to do duty in the other; and they likewise recommended certain county expenses to be town charges. This resolution of the board of supervisors, was sent up to the committee together with a draft of a bill embracing the foregoing provisions.

This arrangement prepared by the board of supervisors appear to give satisfaction, and the individuals attending the committee from the county of Kings, united in the general proposition, but differed on some particular details contained in the bill. At the request of the individuals on both sides, the committee adjourned their next meeting for about three weeks, that those individuals might have an opportunity of expressing their opinions after returning from a visit to their county.

Soon afterwards the committee received some other communications from the county, viz. four petitions from the four towns, signed by every individual of three of the towns, with the exception of about six or eight persons, as was stated, and by nearly all the inhabitants of the other town, in favor of two court-houses and two jury districts, as recommended by the supervisors.

A remonstrance was likewise presented, signed by about 150 names, purporting to be inhabitants of the four towns, against having two court-houses. Against this remonstrance was sent up two other remonstrances or certificates, signed by about eighty names of persons who had signed the first remonstrance, setting forth that they had been induced to sign it by false representations made to them, and protesting against their names being used to subserve the object of said remonstrance.

From Brooklyn and Bushwick no remonstrances have been received on the subject since the last proposition of the board of supervisors. And the agents who again attended before the committee appeared to acquiesce in the general provisions, but objected to particular sections of the bill; one relating to relief granting to temporary poor, which was agreed to be stricken out. They also objected to the section making it compulsory on the towns to build a court-house at Flatbush, and requested that it might be so modified as to give them permission to build within a limited number of years; and proposed a provision exempting the towns from jurors duty at Brooklyn except at two terms in a year; believing that they would

not erect a court-house after trying the experiment with one. This proposition was agreed to after an understanding that all further opposition and difference of opinion was to cease, and this being the understanding of the committee, a new bill was drawn agreeably to this understanding, which is herewith submitted.

Since this hearing, the committee have understood, that there does exist some other objections to the details of the bill, arising from misconception as is said, but which do not affect its general merits, and which may be a neglect of consideration in committee of the whole.

The committee after duly considering all circumstances, are of opinion, that the compromise recommended by the board of supervisors as modified by the bill prepared by the committee, is the most advisable course, and best calculated to accommodate and harmonise all parts of the county.

Without perceiving any material inconvenience that can result to the village of Brooklyn by the erection of a court-house at Flatbush, the committee can readily imagine that in some cases it may be an accommodation. Should a malignant or pestilential disease again prevail in that village, it might become necessary to hold their courts in some place out of the infected district.

By providing separate jury districts, the burden of jury duty will fall more equally upon individuals. The farmer may not be kept so long from his harvest fields in attending courts in the village, nor the merchant or mechanic of the city taken from his employment to attend at Flatbush; and the dissimilar interests of city and country occupations would be less incommoded by this arrangement, in the opinion of the committee, than any other.

The committee have prepared a bill which they herewith submit as a substitute for the bill from the Assembly.

**IN SENATE,**

**March 27, 1833.**

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**REPORT**

**Of the select committee on the bill entitled “An act concerning patents for reserved and escheated lots in the Military tract.”**

Mr. Seward, from the select committee to whom was referred a bill entitled “An act concerning patents for reserved and escheated lots in the Military tract,” made the following

**REPORT:**

By the act of Feb. 28th, 1789, providing for the survey and balloting of the lots in the Military tract, six lots were reserved in each township for the purposes mentioned in the act. The title of these lots in various parcels has been subsequently granted by patents. There are no minutes or evidence of these patents in any office on the tract, or preserved in any other place than the State offices. The object of the bill is to direct that the Secretary of State shall furnish, to be deposited in the clerk's office of Cayuga county, a certified list of these patents.

It will be recollected that the clerk's office of Cayuga county is the place where are deposited the original title deeds and records for the whole Military tract. By an act passed April 13th, 1819, it was directed that there should be furnished, to be deposited in the said clerk's office, a certified copy of the balloting book. This certified copy of the balloting book, together with the certified list of patents for reserved lots, which should be made to include patents for escheated lots, will complete the facilities afforded at the Cayuga clerk's office for investigating all the titles of the Military tract. The committee approve the bill and recommend that it become a law.



**IN SENATE,**

**March 27, 1833.**

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**REPORT**

**Of the committee on the incorporation of cities and villages, on the bill to provide for the election of a police constable in the village of Pulaski.**

Mr. Sudam, from the committee on the incorporation of cities and villages, to which was referred the bill entitled "An act to provide for the election of a police constable in the village of Pulaski in the county of Oswego,"

**REPORTED:**

That an additional constable is petitioned for by the trustees of the village of Pulaski, on the ground that at the last annual election held in this month, (March, 1833,) the people elected but *four constables*, neither of whom happened to reside in the village of Pulaski, but one or more of them within two miles of the village. That there are now residing in the village two justices of the peace, and that it would be convenient for the inhabitants of the village to have a constable within its limits.

The committee report against the passage of this bill, as not called for by the facts of the case, and as leading to local legislation, after a disappointment in the election, which might in its consequences tend to the accumulation of petitions for redress, after the action of the people in a particular case, and not asked for except by the trustees of the village.

**All which is respectfully submitted.**



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**IN SENATE,**

**March 27, 1833.**

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**REPORT**

**Of the Canal Board, on the petitions of inhabitants of Erie and Niagara counties, referred to them by the Senate, relative to damages caused by damming Tonawanda creek.**

The Canal Board, in obedience to a resolution of the honorable the Senate, referring to their consideration two petitions, signed by a large number of inhabitants of the counties of Erie and Niagara, praying to be relieved from damages which it is alleged they sustain, by the damming of the Tonawanda creek on the Erie canal; and requiring them to report "the effect of the dam upon the adjacent lands, and the health of the surrounding country, and also as to the best means of remedying the evil complained of;" make the following

**REPORT:**

The petitioners represent, that the dam constructed by the State across the Tonawanda creek, flows large tracts of land adjoining it, and Ellicot's creek, and produces disease and death: They allege that it is practicable to reclaim most of the lands adjoining the Tonawanda creek, by cutting drains; they also suggest that if the present dam should be removed up the stream, above the point where it is intersected by Ellicot's creek, it would be practicable to pass the waters of the latter stream under the canal, and restore the land adjoining it to the condition it was in previous to the construction of the dam. The claimants conclude their memorial by requesting, that if the dam across the Tonawanda creek should remain, that leases may be given to the owners of land on the creek, granting them the right of using the surplus waters for ~~milling~~ establishments.

By referring to the reports of the Canal Commissioners it will be seen, that the earliest suggestions and surveys of a canal to Lake Erie, contemplated the use of a portion of the Tonawanda creek as a part of the canal. The report of the Commissioners in 1811 was predicated on a continued inclined plane from Lake Erie to the Hudson river, with a descent of six inches to the mile. The report of 1812 favored the suggestion of inclined planes, but it proposed that the Erie canal should "consist, 1st, of an inclined plane to the Seneca outlet: 2d, of a descent by locks to a lower level: 3d, of a level canal as far east as the face of the country may indicate: 4th, of an elevation at the end of it by locks to the Rome summit: 5th, of a level canal from thence to where the descent may become needful: and 6th, of an inclined plane to a basin near the Hudson river."

Neither of the reports referred to proposed the erection of a dam across the Tonawanda creek. The distance from the foot of the lake to the Tonawanda, being about ten miles, a descent of six inches to the mile would bring the surface of the water on a level with the contemplated inclined plane, at its intersection with this stream; and a continued descent of six inches to the mile, would have reversed the current in the Tonawanda, and rendered a dam unnecessary.

Subsequent to the period of which we speak, and upon a mature examination of this subject, the idea of inclined planes was abandoned, and the present arrangement for constructing the Erie canal, was adopted. For the purpose of avoiding a summit level west of the Seneca river, and securing a supply of water from Lake Erie, it became necessary to construct a dam across the Tonawanda creek, which should raise the water about four and a half feet above its natural level, in order to carry forward the level of the lake with the necessary descent, to the eastern termination of the mountain ridge.

The Tonawanda creek in an ordinary state of water, before the dam was erected, had a declivity on its surface toward the Niagara river, of one foot in the twelve miles, which now forms a part of the canal. The height of the dam across this stream has been so arranged with the level adopted eastward through the mountain ridge to Lockport, as to reverse the current in this stream, and give a declivity on the surface eastward, of two and a half inches in the twelve miles.

An inconsiderable quantity of land on the north side of the Tonawanda creek, and on several small rivulets which conduct the water from the higher lands into it; and a much larger quantity on the south side of the stream, and adjoining Ellicot's creek, is either covered with water, or materially injured. It was obvious at the time the dam was constructed, that damages would result from elevating the water four and a half feet above its natural level, and a strong desire was felt to avoid it. There was no alternative but to construct a canal parallel with, and near this stream, and to have passed it in an aqueduct. This plan would have been attended with great expense, as most of this canal would have required deep excavation; the bottom of it, for half the distance, would have been below the surface of the water in the creek, and the appearance of heavy slides on the margin of the stream, gave strong indications of quick sand. It has already been stated, that the surface of the water in the Tonawanda creek, near its mouth, was about six inches below the bottom of the canal. If an aqueduct had been constructed, the bottom timbers of the trunk would have been nearly two feet below the surface of the water in its ordinary state. To have sustained an aqueduct under such circumstances, against the ice and flood-wood, which often passes off with considerable violence in spring freshets, would have been very difficult, if not entirely impracticable.

Aside from the almost insurmountable obstacles to the construction of a canal independent of the creek, it was obvious that a great public benefit would result from the present arrangement of the public works. The average depth of water in the Tonawanda creek, will not vary much from ten feet, and the average width is about twelve rods. A towing path has been made on the margin of this stream, and it now affords the best navigation on the Erie canal. The expense for repairs is comparatively very trifling, and the advantage of this wide and deep stream over a narrow canal, in sending forward a supply of water from the lake is of great importance.

It should be recollected, that there are no feeders to the Erie canal, between Lake Erie and the Seneca river, a distance of about one hundred and fifty-three miles, except one from the Tonawanda and Oak-orchard creeks, which is taken into the canal eighteen miles east of Lockport, and one from the Genesee river which is taken into the canal ninety miles east of the lake. The first of these

feeders furnishes comparatively but a small quantity of water; the latter feeder would supply the canal to the Seneca river, if all of the water from the river was put in requisition. If any plan had been adopted, which would have rendered this necessary, it would have retarded the growth of the village of Rochester, and have been highly detrimental to the surrounding country.

These facts are adverted to, at this time, for the purpose of showing the importance of so arranging the plans for the public works, as to create every practicable facility of drawing from the lake, the greatest possible supply of water.

The low lands on the north side of the Tonawanda creek, are situated on and near the margin from its mouth, upwards about six miles, and on the banks of small streams, which intersect it. It would be practicable to reclaim these lands, by raising a dyke on the banks of the Tonawanda, intercepting all of the small streams, and conducting the water in an artificial channel into the Niagara river. This work would be attended with an expense far exceeding the value of the land which it would reclaim.

Ellicot's creek connects itself with the Tonawanda a short distance above the dam, and at the point where the canal from Black-Rock connects with the latter stream. The towing-path passes over Ellicot's creek on a bridge of about one hundred and forty feet in length. About four miles of Ellicot's creek is on the same level with the Tonawanda; its banks on the average are not so high, and a much greater quantity of land is flowed and injured.

The canal appraisers, in the year 1826, about three years after the dam was constructed, personally examined all the claims submitted to them for damages on the aforesaid streams, and awards were made upon all these claims, and damages were allowed in several cases. The aggregate amount of damages paid was not a large sum, as the improvements to which their attention was principally invited, were not then extensive; and the consideration that these lands were more than three hundred and fifty miles from the Hudson river, and were materially benefitted by the construction of the Erie canal, must no doubt have had an influence on the question of damages. It is proper to remark, that the greatest portion of the lands injured by the Tonawanda dam, have probably changed owners since its erection.

The petitioners very justly admit the advantages of the Tonawanda dam to the Erie canal, and they do not, "*at this time,*" ask for its removal; but they request that the water in Ellicot's creek may be restored to its natural level, by passing it under the canal, at or near the village of Tonawanda, which they appear to think is practicable, at an expense which will be inconsiderable.

The preceding remarks will shew, that the surface of the water in Ellicot's creek, and in the Tonawanda creek, at its ordinary state, before the dam was erected, and in the Niagara river where these streams meet, was nearly on a level corresponding with the bottom of the canal. To pass the water of Ellicot's creek under the canal in culverts, would be attended with great expense, and the ice and flood wood passing off with this stream during floods, would probably as often as this occurs, effectually obstruct the passage of the water under the culvert, and cause it to seek a passage to the river elsewhere, or inundate the adjoining country.

To reduce the water in Ellicot's creek to its natural level, it would be necessary to remove the present dam across the Tonawanda creek; to construct a new dam farther up than where Ellicot's creek intersects it; to transfer the guard-lock from the west side of the Tonawanda creek to the east side of Ellicot's creek; to construct an aqueduct across the latter stream, and to make several chains of new canal, in order to connect the Tonawanda with the aqueduct on one side, and the aqueduct with the present line of canal on the other.

The Canal Board have not the necessary information to enable them to submit an estimate of the expense of this alteration of the public works, but they believe it would require an expenditure of at least \$20,000. The average depth of water in Ellicot's creek where the aqueduct would probably be constructed, is about eight feet. About two feet of the timber forming the bottom of the aqueduct, would be submerged at an ordinary state of water. The capacity of the stream under the aqueduct would no doubt be sufficient at all times to pass the water, but the flood wood and ice would lodge against the aqueduct and render it very insecure.

The dam across the Tonawanda creek has latterly been kept considerably higher than was originally designed. This became necessary to sustain a navigation in the canal passing the deep ex-

cavation in the mountain ridge, and in order to force eastward a sufficient quantity of water to answer the requirements of the canal.

In constructing the canal a descent of one inch to the mile was given from Black-Rock to the Tonawanda creek; from thence, as has been before stated, a declivity on the surface of two and a half inches on the twelve miles of said creek, from the creek to the locks at Lockport, of one inch to the mile, making altogether, a descent from the lake to Lockport, of nineteen and a half inches.

The advantages anticipated from this arrangement have not been fully realised. That part of the canal which passes through the deep earth excavation on the mountain ridge, has been attended with many difficulties from the beginning; all parts of it have never been excavated to the bottom at the same time. The banks in some places are composed of light running sand; at other places the soil is clay underlaid with quicksand, which also makes its appearance in several places in the bottom and sides of the canal. Obstructions formed from these causes have rendered it necessary to keep the water in the Tonawanda creek above its proper level.

The country bordering on the Tonawanda and Ellicot's creek is level; some of the lands were but little elevated above the water before the dam was erected, and before that period it probably was subject to the prevailing diseases of that country. The Canal Board, however, believe that the causes for disease have been increased and extended by the erection of the dam, and it is a source of regret, that the construction of any part of the public work should be liable to the admission we have made.

If it was proper to alter the public works, so as to remove the complaints of the petitioners, the Canal Board, under the circumstances of this case, would recommend a liberal appropriation for this purpose; but it is believed, that a proper regard to the public interest forbids that the alterations according with the views of the petitioners should be made.

The evils complained of can be partially obviated by removing the bars, and maintaining a fair bottom in the canal through the mountain ridge.

By referring to the last annual report of the Canal Commissioners it will be seen, that they are apprised of the existence of the causes which have given rise to the complaints of the petitioners, and that they are taking measures to obviate them. The Canal Board concur in the propriety and necessity of carrying these measures into execution with as much promptness as the circumstances will admit.

All which is respectfully submitted.

WM. C. BOUCK,  
JOHN A. DIX,  
A. C. FLAGG,  
S. YOUNG,  
A. KEYSER,  
GREENE C. BRONSON,  
JONAS EARLL, Junior,

*March 21, 1833.*





**IN SENATE,**

**March 27, 1833.**

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**REPORT**

**Of the committee on the judiciary, on the petition of  
Samuel King.**

Mr. Lansing, from the committee on the judiciary, to whom was referred the petition of Samuel King for relief,

**REPORTED:**

That it appears by the petition that in the month of January, 1823, the petitioner, together with other persons, became bail under the statute, for Joseph Wilson, then being the sheriff of the county of Allegany; that owing to the neglect and misconduct of the said Wilson, the bail were made liable on their bond as such bail; that judgment was recovered in favor of the people of this State, against the said Wilson and his bail, on their said bond, in the supreme court of this State; that the said judgment was recovered by reason of the said Wilson not returning, as by law required, certain warrants against certain town collectors of the said county of Allegany, issued by the county treasurer of said county; that the said liabilities have rendered the said petitioner and his co-sureties insolvent, and in the language of the said petitioner, "have brought him and family to the very threshold of poverty;" and that the petitioner states, with these liabilities impending over him, he feels unable to transact business with a view to supporting his family, "*without a removal,*" or at least a very great mitigation and reduction of his liabilities to the State, by reason of his being such bail. For these reasons, the petitioner prays that he may be released from all liabilities to the State, so that he may pursue his avocations "without any disturbance or molestation" by reason of said liabilities.

The committee, although they regret the unfortunate situation in which the petitioner and his associates are placed, cannot see that their misfortunes are of that nature, which would with propriety come within the sphere of legislative relief.

The committee can see nothing in the facts contained in the petition, that would warrant the Legislature to interfere, either as matter of right or equity. The facts most clearly show that the State have no right to interfere in the judgment, from which relief is sought; and that all questions arising on or in relation to the same, are between the county of Allegany and the said Wilson and his bail. Although the bonds required of sheriffs, and other official bonds, are given to the people of the State by name, yet the State have no direct interest in them, but hold them merely *quasi trustees*, for the benefit of the individuals who acquire rights under them by any misconduct or negligence of the officer. The suits commenced on a sheriff's bond, although brought in the name of the people of the State, are instituted on the application and for the benefit of the persons whose rights and whose interests have been affected by the misconduct of the officer, and against which misconduct the bond is taken as an indemnity. The party injured, in addition to the responsibility of the sheriff, is entitled to the security which the situation, circumstances and responsibility of the sheriff's bail furnish. Such being the case, the Legislature could not release a judgment recovered on a sheriff's bond, for the protection and enforcement of an individual right, without assuming upon itself, equitably at least, a responsibility to the person interested, in and by whose procurement such judgment was obtained to the amount of his rights in the same. The committee feel assured that the Legislature would not in this indirect mode, do what they would not do directly, assume upon itself the responsibility of responding to individuals for all damages they may have sustained by reason of the misconduct of a public officer. A compliance with the request of the petitioner, the committee are of opinion, would furnish strong equitable claims upon the Legislature for such relief.

The committee are aware that it may be said the judgment mentioned by the petitioner was not procured on the application of an individual, but for the non-payment of public taxes. But the committee repeat, that the county of Allegany, or rather a few towns in said county, have the sole interest in the judgment. It was recovered by reason of the said Wilson not returning warrants issued

against various collectors of said county, under the statute for the collection of taxes. For aught that appears, no portion of the taxes directed to be levied were for the benefit of the State treasury. But admit that a portion was a State tax, and there had been a failure in their payment to the treasury, the remedy of the State is not on the sheriff's bond, but a resort to the county. From the lapse of time since the default referred to occurred, the committee feel justified in presuming, that all defalcations and deficiencies, as far as concerns the State, have, ere this, been supplied by the proper authority of the county of Allegany, and paid into the State treasury. If so, it is evident that the county of Allegany, or some of the towns in said county, which may have been subject to a proportion of re-taxation by reason of said default, have the exclusive right to all advantage from the forfeiture of the condition of said bond for their indemnity. And should the Legislature release and discharge this indemnity, the county and towns interested would have an equitable claim upon the State to refund the moneys they have so paid into the treasury.

The committee have therefore come to the conclusion that the State have no claim against the said petitioner to release; that any interference on the part of the Legislature with the aforesaid judgment, or with the bond on which it is founded, would be wrong in principle, and as a precedent, most injurious in its results.

The committee are therefore of opinion, that the prayer of the petitioner ought not to be granted, and that he have leave to withdraw his petition.



**IN SENATE,**

**March 27, 1833.**

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**REPORT**

**Of the committee on Rail-Roads, relative to the Saratoga and Whitehall Rail-Road Company.**

Mr. Sudam, from the committee on rail-roads, to which was referred the bill entitled "An act to incorporate the Saratoga and Whitehall Rail-road Company,"

**REPORTED:**

That they have had the said bill under their consideration, as well as the remonstrances against the passage of the same from the citizens of Troy, Lansingburgh and Waterford.

That the parties have been represented and heard by counsel, and that the two positions taken against the bill in question were,

1st. That it ought not to be passed into a law, inasmuch as Troy and Waterford have heretofore exclusively participated in the northern trade, and that the proposed road might and would divert the trade to Albany, and therefore it was *their right* to make this road from Troy to Whitehall, and that they were only prevented from petitioning the Legislature for a grant of such corporation because they, at their last session, decided that they would not grant a rail-road company on the margin of either the Erie or Champlain canals.

2d. That independent of the supposed fact that this rail-road would divert passengers from their route by Troy to the south, it would prevent her from reaching Whitehall by means of a rail-road for the reasons:

1st. That only one road for passengers could be constructed and pay cost, and

2d. That there is a narrow passage on Wood Creek, barely sufficient for one rail-road, and that being in the possession of this company (should this bill pass,) Troy and Waterford, if they made a road, would be prevented from reaching Whitehall.

Your committee not having any certainty that any rail-road would ever be made from Troy to Whitehall for the mere transportation of passengers and their necessary and accustomed baggage, have not been able to come to the conclusion that the bill ought not to become a law for the reasons urged against it.

But considering the provisions of the bill too general, they have amended the 9th and the last section of the bill, and with these amendments they report in favor of its passage.

The amendment to the 9th section guards more specifically against the transportation of any thing but passengers and their usual baggage on this road, and the amendment to the 17th and last section provides for the action of the Legislature on the narrow pass between Fort-Ann and Whitehall, at any time when in its judgment it may be necessary to act for the public good.

Many other considerations were offered by both parties. The committee have stated those only which were considered by them as important to the conclusion, whether they should report for or against the passage of the bill.

**No. 92.**

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**IN SENATE,**

**March 27, 1833.**

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**REPORT**

**Of the Canal Commissioners, on the petition of  
Cornelia Marseles.**

The Canal Commissioners, to whom was referred by the Senate  
the petition of Cornelia Marseles,

**REPORT:**

The petitioner represents, that some of her land was appropriated for the construction of the Erie canal, and prays for relief.

Since the petition was referred to the Canal Commissioners, they have ascertained that the petitioner's damages were appraised by the Canal Commissioners, when they were charged by law with that duty. The agent has had notice of that fact. The Commissioners therefore presume that no legislation upon the subject will be necessary.

All which is respectfully submitted.

**JONAS EARLL, Jun.  
S. YOUNG.**

*March 25, 1833.*





**IN SENATE,**

**March 27, 1833.**

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**REPORT**

**Of the judiciary committee, on the petition of Derick Neff and Philip Forncrook.**

The committee on the judiciary, to which was referred the petition of Derick Neff and Philip Forncrook,

**REPORT:**

The petitioners represent that William Lowell, late of Glen, Montgomery county, deceased, on the 25th of August, 1828, made his last will and testament, and thereby bequeathed to the petitioner, Neff, *a span of horses, harness and wagon, ten yards of muslin cloth and a great coat.*

That he also bequeathed to Patty Forncrook, wife of the other petitioner, *all his beds and bedding.* That no other bequest or devise was made, except two suits of clothes to Joseph Brown, and an umbrella to Jane Cooper.

That shortly after making the will, the said Lowell departed this life, and letters of administration, with the will annexed, were in December, 1828, granted by the surrogate of Montgomery to Philip Forncrook, one of the petitioners.

That the administrator made an inventory of all the personal property of the testator, including the personal property bequeathed, except the umbrella.

That the personal property was applied in payment of funeral expenses and debts; but not being sufficient to pay all his debts, application was made to the surrogate for leave to sell the real estate.

That the same was sold and the debts paid, and that there now remains in the surrogate's office, after paying all debts and expenses, a balance of \$331.56, the avails of the real estate.

That no part of the bequests have been satisfied, except the umbrella to Jane Cooper.

The petitioners allege, that they are not apprised that the testator left any heirs in the State of New-York or elsewhere.

That application has been made to the surrogate for an order or decree to pay from the avails of the real estate, the amount of the respective legacies, which was refused; and the petitioners now ask a law authorising or directing him to pay the same.

Unless the estate has escheated to the people of this State, for defect of heirs, the committee are not aware of any principle in legislation that would justify such a law. It is in effect asking the Legislature to make a posthumous will for the testator, in lieu of one made by himself.

The petitioners admit the validity of the will: this presupposes the exercise of a sound disposing mind, and courts at law or equity are the proper tribunals to decide what rights were acquired under the will, and to enforce those rights.

If the surrogate decided wrong, the petitioners had the right of appeal to the Chancellor; and if they acquired no rights under the will that could be enforced by the courts, it is, in the opinion of the committee, impolitic for the Legislature to interfere.

The testator having made no provision in his will for the payment of his debts, his personal estate was left to be first applied for that purpose. Until the personal property was exhausted, no resort could be had to the land, and as the will did not charge the legacies on the land, no resort can be had to it by the legatees.

Every citizen is presumed to know the law, and as the testator in effect devised his personal estate subject to the payment of his debts, the law presumes that he so intended, and that he did not intend to charge his real estate with these legacies.

If the will is to be so construed, then the committee object to any enactment that shall attempt to change the provisions of the

will, and to create a charge to the prejudice of the heir at law. In fact, the committee suppose such an enactment would not be binding upon him, and his rights should not be embarrassed by legislative enactment.

If it should finally appear that the testator had no heirs capable of inheriting, and that the land, or the avails thereof, escheated for defect of heirs, then the Legislature may, in its discretion, make such disposition of the fund in the hands of the surrogate, as shall be deemed most advisable. The committee, however, discover nothing in the will of the testator that appears to give the petitioners any particular claim to this fund, or to the equity of the Legislature.

There may be facts not stated in the petition and unknown to the committee, that might induce the Legislature, upon a proper application, to release to the petitioners the amount of these legacies; but this the committee suppose should be something more than the fact that he made these bequests.

The petitioners, however, have not, in the opinion of the committee, taken the necessary measures for an application to the Legislature, on the ground that the State owned the fund. This fund being the avails of real estate, the committee suppose may be regarded as the estate itself. A notice of the application was, therefore, necessary, which the committee have no evidence has been given.

They suppose the spirit and intent of the law requiring notice is as applicable to a petition for the avails of escheated land before the office found, as for a release of land itself. A notice should not be dispensed with where there may be heirs at law who have an interest in the fund.

The committee therefore report against the petitioners, and recommend that they have leave to withdraw their petition.

LEVI BEARDSLEY.

*Chairman.*



**IN SENATE,**

**March 27 1833.**

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**REPORT**

**Of the committee on the judiciary, on a bill from the Assembly, entitled "An act for the relief of Margaret Langley, executrix of James Langley, deceased, James Langly, junior, and Henry G. Langley."**

The committee on the judiciary, to which was referred the bill from the Assembly, entitled "An act for the relief of Margaret Langley, executrix of James Langley, deceased, James Langley, junior, and Henry G. Langley,"

**REPORTED:**

That the petition on which the bill is founded is signed by Margaret Langley and her two sons, James and Henry, James being about seventeen, and Henry about sixteen years of age.

The petitioners represent that James Langley, deceased, by his last will, made the first of July, 1830, devised his real and personal estate. That the will, after his decease, was proved and recorded in the surrogate's office in New-York. That Mrs. Langley was appointed executrix, and Charles H. Redman and John Mansfield executors. That Redman declined acting as executor, and that letters testamentary were granted to Mrs. Langley and Mansfield.

The petitioners represent that the testator devised, among other estate mentioned in the will, to Mrs. Langley in lieu of dower, the equal undivided third part, during her life, of a lot of land in New-York, with the buildings thereon, then being No. 49, Banker-street, now No. 53, Madison-street.

That he also devised the same lot to his two sons, James and Henry, in equal portions, subject to the right of dower of Mrs. Langley during their and each of their natural lives. And if either of them should die without lawful issue, then he devised the moiety of the one so dying to the survivor. But if either or both should die leaving issue, then the portion of the one so dying should descend to such issue, their heirs and assigns. If both should die without issue, then said lot to go to his daughter during life, and after her death to her lawful issue, and the issue of such issue; but if his sons and daughter should die without lawful issue, then to his right heirs forever.

The petitioners also represent that the testator by his last will directed his executrix and executors to build a suitable house on said lot, and that they should apply so much of his personal estate not otherwise disposed of, to the building of such house as would be sufficient for that purpose.

They represent that for the purpose of improving the property and making it productive to the widow and her children, and in pursuance of the will, a contract was made to erect a two story brick house on the lot, for the sum of \$3,450, which is now nearly completed. That \$2,050 has been paid to the contractors, and includes all the personal estate of the testator not otherwise disposed of by his will, with other sums procured by the widow; that there now remains due to the builders \$1,200, and that the personal estate of the testator amounted to \$1,440.

The petitioners pray that Mrs. Langley be authorised to borrow \$1,200 to complete the house, and to mortgage the property as security; and the bill is intended to authorise such loan.

The committee have come to the conclusion that it would be an improper enactment to pass this law.

It would, in effect, be subjecting the inheritance to a charge never contemplated by the will of the testator, and rendering more valuable the right of dower of Mrs. Langley. The testator directed the house to be built from his personal estate, and devised the land subject to the right of dower of his wife, the executrix. She has exceeded her authority, and now asks to encumber the estate with a mortgage, the avails of which mortgage are to render

her right of dower the more valuable just in proportion to the increased value of the property from the improvement.

The Legislature can know nothing of her transactions in relation to the personal estate, whether that has been fairly applied or whether the improvement is a beneficial one for the estate except from her ex parte representations. They do not intend to insinuate that any thing is wrong, but that they are unable to ascertain the facts, shows that the Legislature is not the appropriate tribunal to apply to for redress.

If the improvement is beneficial to the estate, and the executrix has acted in good faith in applying the personal property, most likely on showing these facts to the Chancellor she can attain her object. If the Chancellor, from a full view of the facts should be disinclined to indemnify Mrs. Langley, then the committee believe it would be indiscreet for the Legislature, without facts, except as they appear from her representations, to authorise the contemplated loan.

The committee deem it more safe for all concerned to leave this matter with the judicial tribunals of the State, than for the Legislature to attempt to regulate and enlarge the power of the executors or devisees under the will.

The committee are aware that statutes have occasionally been passed which not only enlarged the power of executors, but, in some instances, thwarted the desires of the testator, and greatly prejudiced the interests of heirs and representatives.

To justify the Legislature in passing laws in reference to particular estates, the applicants should show affirmatively that courts at law or equity cannot aid them, and that it is of absolute necessity to those interested that legislation should be had.

The committee, on the whole, report against the bill.

LEVI BEARDSLEY,

*Chairman.*





**IN SENATE,**

**March 27, 1833.**

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**REPORT**

**Of the committee on rail-roads, on the bill to amend an act to incorporate the New-York and Albany rail-road.**

Mr. Sudam, from the committee on rail-roads, to which was referred the bill, entitled, "An act to amend an act to incorporate the New-York and Albany rail-road company," passed April 17, 1832,

**REPORTED:**

That the bill ought not to pass into a law:

1st. Because the requisite notices have not been given in the different counties through which the road is to pass.

2d. Because the notice given differs essentially from the provisions of the bill.

3d. Because the bill before the committee grants an unlimited time for the commencement and completion of the road. And

4th. Because the petition asks, and the act reported on grants, exclusive privileges to the petitioners.

All which is respectfully submitted.



**IN SENATE,**

**March 28, 1832.**

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**REPORT**

**Of the committee on claims, on the bill from the Assembly entitled "An act for the relief of Charles M. Pine."**

Mr. Cary, from the committee on claims, to which was referred a bill from the Assembly entitled "An act for the relief of Charles M. Pine,"

**REPORTED:**

That the bill provides for the repayment to the said Pine of one hundred dollars paid by him for a pedler's license in the month of April last.

The only documents accompanying the bill are the petition and a certificate of the Secretary of State. The latter merely states that a pedler's license was issued to the said Pine on the 14th of April last, pursuant to title 4, chap. 17, part 1, Revised Statutes, for which he paid into the treasury the sum of one hundred dollars, and that a letter was received by the Secretary of State on the 18th of May last, returning said license, and stating that circumstances not foreseen at the time Mr. Pine took it had occurred to prevent his pursuing his business as a pedler. The petition, in addition to the foregoing, adds, that the license was to travel as a pedler with two horses, and that immediately after obtaining said license, circumstances "over which the petitioner had no control rendered it inconvenient to pursue the business of a pedler, and it being illegal for him to transfer said license to any other person, he had been advised to return it to the Secretary of State."

What the circumstances were that rendered it "inconvenient for the petitioner to pursue his business of a pedler," the petition-  
[Senate, No. 96.]

er does not state, nor is the committee aware that it can be very important to ascertain. The license was purchased and paid for by the petitioner on the same principle as he would purchase any other article of which he supposed he could make a profitable use. The circumstances that prevented his realizing the expectations that induced the purchase were altogether personal to the petitioner, and the risk of their occurrence was, what from the very nature of the transaction he alone was to incur.

The early return of the license to the Secretary of State was of no advantage to the State, nor in any respect of any consequence, except to show that the petitioner had made little or no use of it. But the committee cannot perceive that this petitioner's case is any harder, or his equitable claim for the return of the money any greater, than would be that of a pedler who, instead of realizing the profits he anticipated from his business, discovers after a year's experiment that his toil and diligence have resulted only in disappointment and loss. The committee report, therefore, against the passage of said bill.

**No. 97.**

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**IN SENATE,**

**March 29, 1833.**

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**REPORT**

**Of the Surveyor-General, on the petition of the trustees of school district No. 4, in the town of Salina.**

The Surveyor-General, on the petition of the trustees of school district No. 4, of the town of Salina, referred to him by the honorable the Senate,

**RESPECTFULLY REPORTS:**

That in January, 1823, the Commissioners of the Land-Office set apart for the Syracuse salt manufacturing company a quantity of ground, bounded south by the tract on which the village is built and east by Salina-street. The northeasterly part of this ground is so much depressed below the level of that on which the evaporating vats are erected, that the company have deemed it inexpedient to occupy it for the manufacturing of salt.

It is at this place that the petitioners pray for the grant of a lot on which to erect a school-house, for which they say it was determined at a regular meeting of the district to raise the sum of \$3,000.

In the 10th section of the seventh article of the Constitution, it is declared that the Legislature shall never sell or dispose of the salt springs belonging to the State nor the lands contiguous thereto, which may be necessary or convenient for their use, &c.

By the 21st section of the act, chap. 231, passed April 3, 1821' it is made "lawful for any individual or company incorporated under this act, to erect works for the manufacture of *coarse* salt by evaporation in the sun or by artificial heat in vats or pans, on any

land belonging to the people of this State, which shall be *reserved* by the Commissioners of the Land-Office for that purpose," &c. The 6th section of the act, chap. 177, passed April 12, 1822, directs the manner in which lands shall be set apart to applicants under these acts.

In order that the article of the Constitution above quoted might not be infringed, and to provide for the accommodation of salt manufacturers, the Commissioners of the Land-Office have, by a resolution, a copy of which is herewith communicated, inhibited from sale the land therein designated. By the 6th section of the act, chap. 117, passed March 30, 1820, the monies arising from the sales of the salt springs reservation are directed to be paid over to the Commissioners of the Canal Fund. These references are made to facilitate the deliberation of the Legislature on the constitutionality and expediency of granting the prayer of the petitioners.

Respectfully submitted.

SIMEON DE WITT,

*Surveyor-General.*

*March 29, 1833.*

**No. 98.**

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**IN SENATE,**

**March 1, 1833.**

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**COMMUNICATION**

**From the Commissioners of the Land-Office, relative to unpatented lots in township No. 3, Old Military Tract, in the county of Clinton.**

The Commissioners of the Land-Office consider it their duty to represent to the Legislature, that there are five lots, each containing 850 acres, in township No. 3, of the Old Military Tract, authorised to be granted to Benjamin Birdsall, and his associates, by the act chapter 26, passed Feb. 4, 1793, for which no applications have been made by the persons to whom they were balloted in pursuance of the act chapter 26, passed Feb. 24, 1797; in consequence of which, the State has been a loser of the taxes that would have been assessed on these lots had they been patented soon after the grants were authorised. Under these circumstances, the Commissioners of the Land-Office, would respectfully suggest that some provision be made by law for this case, and others similar to it, should any exist. A similar case has been provided for by the act chapter 319 of 1828, in regard to unpatented lands set apart for the Canadian and Nova Scotia refugees, but its provision being limited to that case, does not reach the one now represented.

Respectfully submitted.

SIMEON DE WITT, *Surv'r-General.*  
GREENE C. BRONSON, *Att'y-General.*  
A. C. FLAGG, *Comptroller.*  
JOHN A. DIX, *Secretary.*

*Feb. 28, 1833.*





IN SENATE,

April 1, 1833.

REPORT

Of the committee on Banks and Insurance Companies.

The committee on banks and insurance companies, to whom was referred a resolution of the Senate requiring them to ascertain what banks heretofore incorporated are not subject to the provisions of the general act entitled "An act to create a fund for the benefit of the creditors of certain monied corporations, and for other purposes," and which by their acts of incorporation are so far within the control of the Legislature that its provisions may be extended to them, with leave to report by bill or otherwise, upon the expediency of such an alteration of the acts of incorporation of such banks respectively as will subject them to the liabilities of that act,

REPORT:

That the banks hereafter named, with the amount of capital annexed to them respectively, are not subject to the provisions and liabilities of the general act referred to by the resolution.

<i>Banks.</i>	<i>Capital.</i>
The president and directors of the Manhattan Co.,...	\$2,050,000
New-York Dry Dock Company, .....	200,000
New-York Chemical Manufacturing Company,.....	400,000
President, directors and company of the Fulton Bank, of the city of New-York,.....	600,000
Delaware and Hudson Canal Company, .....	500,000
President, directors and company of the Long-Island Bank, .....	300,000
Carried forward,.....	

Brought forward,.....	\$
President, directors and company of the North River Bank, .....	500,000
President, directors and company of the Dutchess County Bank, .....	90,000
President, directors and company of the Commercial Bank of Albany, .....	225,000
President, directors and company of the Bank of Rochester,.....	250,000
Aggregate amount,.....	<u>\$5,115,000</u>

The Orange County Bank has recently availed itself of the law of last session, and by a compliance with its requirements is now subject to the general act.

The charter of the Manhattan Company is *perpetual*, upon the condition expressed in it, and those of all the others will have expired by their own limitation previous to January first, one thousand eight hundred and forty-seven.

The committee are not insensible to the importance of the question how far the Legislature possess the *right* to impose upon these corporations the payment of a sum for the increase of the bank fund with the liabilities of the act creating it, although no such obligation was imposed by the terms of their original charters. The rights granted them are to be respected, while the power of the Legislature to make necessary controlling enactments in relation to the exercise of the grants its liberality has dispensed, is to be enforced. These institutions owe their existence to the State authority. The powers they possess have been accepted and heretofore exercised upon the conditions expressed or implied in their several grants, and in a majority of the cases the right has been wisely and expressly reserved by the Legislature to either alter, modify or totally repeal the law at its pleasure. In some of them the reservation is contained in the original charter; in others, in the act conferring banking privileges. In either case the Legislative control is perfect. The acts conferring banking privileges and reserving the full power of control, relate to the following banks.

The Chemical, (session laws of 1824, p. 140,); the Fulton bank, (session laws of 1824, p. 144,); the Long-Island bank, (session

laws of 1824, p. 148,); the bank of Rochester, (session laws of 1824, p. 33,); the Delaware and Hudson canal company, (session laws of 1824, p. 332,); the Dry Dock company, (session laws of 1825, p. 178,); the Dutchess County bank, (session laws of 1825 p. 204,) and the Commercial bank of Albany, (session laws of 1825, p. 198.) It is hardly necessary for the committee to express their opinion that in all these cases, the legislative power to do so having been expressly reserved, its exercise by such an alteration of the acts conferring banking privileges as will subject these corporations to the bank fund law, is a question of *expediency* only. The *right* exists unimpaired by the legislative grant.

There is, however, another class of banking corporations, the charters of which contain no express reservation of legislative power to repeal, or even modify or alter the grant. The two corporations thus apparently placed beyond the reach of control are the Manhattan company, (laws of 1799, Andrews' edition, p. 810,) and the North River bank, (session laws of 1821, p. 135.) The latter grant is unconditional; the former is made to rest upon supplying the city of New-York with pure and wholesome water.

The only objection to subjecting these corporations to the liabilities of the bank fund law, seems to arise from the exaction of the amount required to be paid, and the regulations to which, in common with the other banking institutions of the State, they will be compelled to submit. But upon examination it will be found that the State has not, by its charters of incorporation in these cases, *expressly* abandoned the right of taxation; and the committee trust it will not be contended that the exercise of a power so important to the existence of the government and the welfare of community, can be waived by implication, or forfeited by neglect to reserve it in a bank charter. It may be objected that the tax is not imposed upon individuals or other corporations, and that the discrimination is therefore invidious and unjust. It seems sufficient to reply, that it is a matter of legislative discretion to select the objects of taxation, and the use of that discretion is the result of a power never heretofore disputed. Should it be said, the money so to be levied is applied to a special purpose, and that these corporations, if allowed to do so, would dissent from such application, it may be answered, that the application of the money, as well as the selection of the objects upon which it is to be assessed, is alike under legislative control. Nor will the power of *taxing* monied corporations

for *any* purpose whatever find its first exercise in the law recommended by the committee. They were not long since totally exempt from taxation; now they most properly and justly contribute their share to all public expenses, and the committee are not aware that the power of compelling them to do so has been successfully disputed in the judicial tribunals of the State.

The committee are unable to find any force in the other objections, that subjecting the banks in question to the visitation of the Commissioners and controlling the amount of their discounts and issues, violates their charters. Such visitation and control do not take away the charter, or change the corporation government in a manner inconsistent with the grant, under which it acts.

The power of directing this government to the public benefit and preventing it from causing public evil, was reserved to the State authorities, or rather it was never yielded. It is an implied reservation in the charter, and whenever the Legislature deems it necessary, it may interfere and enforce the right so reserved. This should not be done for slight cause, but to judge of the sufficiency of the cause, is an act of discretion only. A striking illustration of the exercise of this controlling power is found in the act to prevent fraudulent bankruptcies, &c. (Session Laws of 1825, page 448.) That act imposed duties and inflicted penalties upon all concerned in the management of incorporated companies, as much in restraint of the powers conferred by the original charters, as those prescribed in the bank fund law. That act opened the stock books to the inspection of the stockholders, restricted the power of making dividends, prohibited the withdrawal of the capital stock, limited the amount of corporation debts, gave a summary proceeding for their recovery, forbade an assignment of corporation effects after a refusal to pay its notes, imposed penalties and liabilities upon the directors, made a variety of essential provisions changing the mode of doing business in such corporations, and finally brought the Attorney-General in aid of closing their concerns in case of insolvency. This law was passed by a Legislature of acknowledged ability after full discussion, and the power to enact it has never been doubted. It expressly controlled the operations of the banks whose rights the committee are now discussing, and they are of opinion that the precedent is of great authority in favor of the power they recommend the Legislature to assert.

If then the position be well taken in favor of the right to compel these banks to comply with the bank fund law, it is only necessary to examine the expediency of the measure. The object of that law was to create a sound currency, to give it the public confidence, and to save the bill-holders and creditors from loss in case of the insolvency of a bank. The first end has been fully attained, and the bills of the banks subject to the general act are readily received not only in this, but the adjoining States, as a substitute for a metallic currency. Fortunately its beneficial operation in protecting those from loss, who in the event of a bank failure are least able to protect themselves, the ignorant and unwary bill-holders has not been tested. No occasion has arisen to call for its aid, and with due discretion as to the amount of the increase of banking capital, and with a just discrimination in its location, by confining it to the more commercial and manufacturing districts, and with a firm and steady refusal of stock-jobbing and speculating applications, there seems little reason to doubt, that this portion of the statute may for a long time remain a dead letter. However this may be, the system has become a part of the settled policy of the State, and as closely identified with its interest and honor, as that of internal improvement, from which she has derived so much of both. In the opinion of the committee, it may be extended to all monied corporations with banking powers. There are many considerations that have led them to this conclusion. It is an act of justice to those corporations who have willingly submitted themselves to legislative control, and whose profits have been lessened in consequence, that others engaged in the same pursuit should be subjected to the same restraints. Equality in this matter is as just as it is desirable. It is due to the public that the circulating paper medium should rest upon a uniform basis for its redemption; otherwise a false confidence in particular portions of it may be created, from a belief that all is equally secured, and which may lead to great individual loss and suffering, in case of the failure of a bank not controlled by the general act. The committee have no information inducing a belief that any of the banks whose operations they seek to control, are unsound, or that their affairs are not managed with prudence and integrity. Indeed, with regard to some of them, they have every reasonable proof they are so managed. But it will be recollected that this confidence has heretofore led, in more than one instance, to the most disastrous consequences, and that integrity and talent have proved

on those occasions an insufficient protection for the people, when unaided by legislative restraint.

The amount of bills issued by banks not under the general law, is not exactly known. Few of the banks in question are compelled to report, and the committee are consequently destitute of information as to the extent of their issues. If they are in proportion to those of the banks under the operation of the bank fund law, it will be found that while fifty-eight banks reporting to the Commissioners, with a capital of \$20,175,000, issue notes to the amount of \$12,215,000, the ten banks that do not report, with a capital of \$5,115,000, will have \$3,087,000. Or in other words, of the State notes in circulation, supposed by this estimate to amount to \$15,302,000, almost *one-fifth*, is issued by banks over whose operations the public exercise no control that can prevent insolvency, or remedy its evils. The committee are aware that the report of the Bank Commissioners, by stating the amount of State notes in circulation on the first of January last at \$14,500,000, allows only \$2,385,000 to the ten uncontrolled banks. They have much reason to believe the amount is more, and even if it lie in the medium between the two sums, it is sufficient to call upon the Legislature to place its ultimate redemption, whenever it may be required, beyond a doubt.

Experience has shown the necessity of guarding against that favoritism which often leads to improvident loans, both to directors and stockholders. In the case of a recent failure, and by which the holders of bills will suffer severely, it is understood that the loss of such a loan to a single individual was of itself sufficient to destroy the solvency of the bank. The propriety of an examination into the situation of these banks will be seen, when it is recollected that, as to several of them, we have no certain information of the amount of capital stock paid in, and their consequent ability to redeem the paper they have issued. And it seems to the committee prudent as well as just, to compel the actual payment of all the capital stock nominally employed.

The committee deem it of the greatest importance to create a community of interest in sustaining the paper currency of the State among all those who issue it. For although owing to peculiar circumstances existing here, and the general prosperity of the commercial world, none of them have for some time past felt that pressure which arises from a want of the public confidence, and

leads to the demand of specie payments, yet we cannot expect this state of things to be permanent. The withdrawal of foreign capital from the reduction of the rate of interest, or any cause rendering its investment elsewhere more profitable to its owners, may produce a scarcity in the money market. And in such an event a state of hostility between the local banks, and even an indifference to the fate of each other, would be attended with fatal effects; while if all were subjected to the same regulations, and connected in the same bond of interest, mutual aid would be rendered, and a joint effort made to prevent a depreciation of their common currency, and sustain the system.

Upon the whole, the committee feel urged by every consideration to recommend the passage of a law subjecting our banking corporations to the control of the general system, and to the examination of its officers. They do so in the confidence that all the beneficial effects anticipated from the bank fund law have been realized, and that its application to the entire paper currency of the State is both right and expedient.

The committee submit to the Senate the expediency of subjecting those corporations to the general act which devote a portion of their capital to other purposes than banking. They are the Dry-Dock, the Chemical, and the Hudson and Delaware canal company. As separate bills are required by the joint rules of the Legislature, the Senate will act separately upon them, as well as the two cases where the power of control is not expressly reserved in the original charters.

Some of the banks were incorporated with provisions of a peculiar character, subjecting the stockholders to personal liability, and the directors to severe penalties. It appears just that both be relieved from this burden, and in maturing the details of the bills, the committee have provided such enactments as will have that effect.

They ask leave to introduce bills in conformity with the opinions they have expressed.

In behalf of the committee.

JNO. G. STOWER.





**IN SENATE,**

**April 4, 1833.**

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**REPORT**

**Of the committee on claims, on the memorial of the  
Leake and Watts Orphan House, in the city of  
New-York.**

**Mr. Sherman, from the committee on claims, to whom was re-  
ferred the memorial of the Leake and Watts Orphan House, in the  
city of New-York,**

**REPORTED:**

**That by the will of John G. Leake, of the city of New-York, he  
devised and bequeathed his real and personal estate, upon a cer-  
tain contingency, to certain trustees, for the purpose of purchasing  
ground to erect and endow a building for the maintenance and ed-  
ucation of helpless orphan children, paying no regard to the land  
of their nativity or the religious persuasion of their parents, until  
they should arrive at a suitable age to be put out apprentices to  
learn some proper trade or calling.**

**The memorialists are the trustees designated in said will, and  
have been incorporated by an act of the Legislature, passed 7th  
March, 1831, entitled "An act to incorporate the Leake and Watts  
Orphan House in the city of New-York." The will has been de-  
cided to be valid in relation to personal property, but not having  
been attested according to the requisitions of the then existing sta-  
tute, was inoperative to carry into effect the intention of the testa-  
tor in relation to his real estate.**

**Mr. Leake having died without heirs, such real estate has es-  
cheated to the people of this State.**

By the death of Robert Watts, the devisee of the personal property, the same became vested in his father, John Watts, who has, with great liberality, relinquished the same to the charitable institution aforesaid, and it has been duly assigned to your memorialists as trustees of the said Orphan House.

By the provisions of said will, no part of the estate so devised and bequeathed is to be applied to the erection of a building, but the same is to be defrayed out of the rents, issues and profits thereof; and consequently it is not in the power of the memorialists to carry into effect the design of the testator, from the limited income of the personal estate.

By the escheat of the real estate, the Legislature have it in their power to enable the memorialists to accomplish the object of the founders of this excellent charity, by permitting the avails of such real estate to be applied towards the purchase of ground and the erection of necessary buildings thereon. The trustees express the hope that the Legislature will not be less generous than Mr. Watts, and will not permit the informality of the will to deprive this charitable institution of the lands, or the proceeds thereof, which were left by the testator, and intended for its endowment.

From inquiries made by the committee, it appears that this real estate, and the proceeds of such as have been sold, after deducting an appropriation for making a road in the northern part of the State, is estimated at about seventy-two thousand dollars.

The memorialists say that this appropriation will enable them at once to enter upon the duties confided to them, by the erection of suitable buildings and the accommodation of as many helpless orphan children as the income of the personal estate will support.

These helpless beings have been lamentably increased by the fatal pestilence which prevailed in the city of New-York during the last season.

It has been estimated that one thousand of these helpless beings, in the city of New-York alone, have been cast upon the hands of charity and become a charge upon the bounty of the public during the last summer, and whose parents have been swept off by the cholera.

The committee, after duly considering the subject referred to them, recommend that the Legislature lend their aid in carrying into effect the charitable purposes of the memorialists, by relinquishing their claim to the escheated property, which may be considered as resting on the defective form of the will of the testator.

With this view of the subject, your committee have prepared a bill to vest in the trustees of the Leake and Watts Orphan House, the right of the State to the lands in question, or the proceeds thereof, and ask for leave to introduce the same.



**No. 101.**

**IN SENATE,**

**April 4, 1833.**

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**REPORT**

**Of the Adjutant-General, on the bill for the relief  
of Gilbert D. Dillon, referred to him by the Se-  
nate.**

**STATE OF NEW-YORK.**

**ADJUTANT-GENERAL'S OFFICE, }**  
***Albany, April 2, 1833.*** }

**SIR—**

I have the honor herewith to transmit a report on the sub-  
ject of the bill for the relief of Gilbert D. Dillon.

**LEVI HUBBELL.**

**Hon. JOHN TRACY,**  
***President of the Senate.***



# **REPORT.**

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## **STATE OF NEW-YORK.**

**ADJUTANT-GENERAL'S OFFICE, }**  
***Albany, April 2, 1833.*** }

The Adjutant-General, to whom was referred the bill for the relief of Gilbert D. Dillon, with the documents relating thereto,

### **RESPECTFULLY REPORTS:**

That the petitioner applies for a remuneration for personal injuries sustained while in the discharge of military services for the State. The claim is founded upon the peculiar nature of those services.

The petitioner was a lieutenant of a company of artillery at Kingston, in the county of Ulster, on and before the 15th day of February, 1828. On that day he was engaged, together with his company, in firing a gun half-hourly during the day, in pursuance of a general order of the commander in chief, in relation to the funeral obsequies of De Witt Clinton. The said order was issued at the recommendation of the Legislature; and a copy of the same is hereunto attached.

While thus employed in discharging the gun, it accidentally burst, and a part of its contents were lodged in the body of the petitioner. The injury sustained thereby, subjected him to a long and painful confinement, to great pecuniary expense, and to the strong probability, for several weeks, of losing his life. His right arm remains yet subject to stiffness; and his right hand is nearly useless.

It does not appear that the accident was occasioned by neglect or carelessness on the part of the petitioner.

These are the principal facts on which the application rests. To grant the prayer of the petition, would doubtless be a grateful duty, should it be found consonant to the general principles of established and safe legislation,



It seems to have been a principle heretofore settled, that for accidents happening during the performance of the ordinary militia service, prescribed and required by law, no compensation will be afforded by the State. The able report of the committee of the Senate, in the matter of *Adonijah Carter* (vide Senate Journal of 1827, page 48,) is here referred to, as furnishing a full and conclusive argument on this subject. The service in which Carter was engaged, was the regular militia duty, to which every "able bodied free white male citizen" in this State is liable.

That "service," say the committee, "is a ~~tax~~ imposed upon individuals in consideration of the protection which is afforded them by the government; and in this respect it is difficult to distinguish it from highway or any other species of taxation."

This principle is admitted to its fullest extent. The enjoyment of the privileges and immunities of citizenship, creates the duty of bearing certain public burdens, which devolve equally upon every individual, and the nature and extent of which are defined by law. The enjoyment of the one is a fair equivalent for sustaining the other; and the acceptance of the equivalent gives the right of enforcing the duty. Against accidents happening during the performance of *such duties*, the State is not bound to ensure the individual, because he has been paid beforehand for incurring the hazard. It is the equivalent which in these cases excludes the claim.

Others have alleged, that as the equivalent is uniform and the duty universal, the cases would be too numerous for the ability of the treasury to bear, and that therefore public policy requires their entire rejection.

Such it is believed, is not the case of the present petitioner.

The service assigned to him was *special* in its nature. The occasion which required it was one of an extraordinary character. Its performance was not compulsory by law, but it was rendered at the request of the State. The extent of the service was limited, being confined by the general order, to "officers in commission," to "each company of artillery throughout the State having a field piece," and to the "military of the city and county of Albany and its vicinity."

It is difficult to discover any equivalent bestowed by the government upon the individuals here designated, in preference to others,

as a remuneration for this additional public duty. The partiality of its operation precludes the idea that this duty may be classed among the general "military services" before described.

Another consideration effectually distinguishes the present case from those before contemplated.

"Military service is a tax imposed upon the individual," not by the *State*, but by the general government. The act of Congress, of the 8th of May, 1792, provides that "each and every free able bodied white male citizen of the respective States, resident therein, who is or shall be of the age of 18 years, and under the age of 45 years, shall severally and respectively be enrolled in the militia, &c."

From this common source flow all the laws of the several States for organising, enrolling and disciplining the militia, and for imposing military burdens upon the people.

It will not be contended that the special services enjoined by the general order of the commander in chief, in relation to the obsequies of De Witt Clinton, were embraced under this general law. The object to be attained by their discharge, was in no way connected with the general government.

Recommended by the State Legislature, ordered by the State Executive, relating to a citizen of the State, they were performed in obedience to the *authority of the State*, and to no other.

Under this view of the facts of the case, it is conceived that the petition of Gilbert D. Dillon presents a claim distinctly differing from those heretofore presented; a claim involving different principles, resting upon no former precedent, and appealing strongly to the justice of the State.

By granting the relief desired, the Legislature will establish no dangerous rule for the control of future times. Extremely rare, will be the recurrence of events like that which occasioned the present injury. The State can have few occasions to honor, in a similar manner, her illustrious dead.

I would therefore, respectfully recommend the passage of a bill granting to the petitioner ample, but reasonable relief.

All which is respectfully submitted.

LEVI HUBBELL, *Adj. Gen.*



**IN SENATE,**

**April 6, 1833.**

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**REMONSTRANCE**

**Of the New-York Chemical Manufacturing Company, against subjecting the Company to the Safety Fund laws.**

**TO THE LEGISLATURE OF THE STATE OF NEW-YORK.**

The New-York Chemical Manufacturing Company having observed by the public prints that the committee on banks in the Senate have reported in favor of bringing this corporation under the provisions of "the act to create a fund for the benefit of the creditors of certain monied institutions," passed April 2d, 1829, would beg leave most respectfully to remonstrate against the passage of any act to subject them to the said law; and in support of their remonstrance, do represent as follows:

That in February, 1823, an act was passed to incorporate the Chemical Manufacturing Company, with a capital of one hundred thousand dollars; that books for subscription to the stock thereof were duly opened, but the stock was not subscribed for, and consequently did not go into operation during that year; but on the following year application was made to the Legislature by said company for banking privileges to be connected therewith, which were granted in April, 1824, and the the two acts constitute the charter of the New-York Chemical Manufacturing Company.

That by the provisions of said charter, they were bound to invest one hundred thousand dollars in a chemical manufactory, and also to keep, at all times, "thirty thousand dollars in active employment in the business of manufacturing chemicals," whether the same is productive of profit or loss.

That the provisions of the charter have been fully complied with, and they have gone on manufacturing chemicals of various kinds, though at a loss of ten thousand dollars a year, during the first seven years of their incorporation.

That in consequence of such losses, they have made no dividends for the last three years on any portion of their capital.

That the manufacturing of chemicals may be profitable this year, and next year it may subject the company to loss, because the value of such articles is controlled by the legislation of Congress and not by State legislation; and that the prosperity of this institution depends upon that of the manufacturers in general who consume its chemicals, and their prosperity is likewise dependent upon the general government.

That the last tariff passed by Congress has withdrawn, and will continue annually to withdraw, some portion of the protecting duties which have enabled the company recently to make chemicals at a profit at the present prices.

That the chemical factory has very essentially, ever since its establishment, aided other manufacturers, having enabled them to obtain chemicals on better terms than they did before, and this is the only establishment of the kind in this State of any magnitude; and as an evidence of the reduction of prices which it has been instrumental in effecting on some articles of general use, they would instance that of "*oil of vitriol*," which during the late war, and before any chemical establishments existed in this country, was sold at 40 cents per pound, and is now sold at four cents per pound, and a like reduction has taken place in most of the other chemicals used in the United States.

That the apparatus used in making chemicals is expensive, and requires frequently to be renewed, and being much subject to fires and explosions, the premium for insurance is exorbitant.

That this company has fulfilled the stipulations contained in its charter, which formed the contract between the Legislature and the stockholders at the time of its incorporation.

That although the Legislature has reserved the right to alter and amend the charter, &c. still it has been supposed that this right

would not be exercised unless there was fraud or mismanagement on the part of the company, which is not pretended.

But should the Legislature, notwithstanding this their remonstrance, determine to exercise the right to alter its charter by making them contributory to the safety fund, they would most respectfully ask the privilege of disposing of their chemical factory, or of discontinuing or lessening that branch of their business at any time when by the acts of Congress, or from any other cause, it shall be found to be attended with a loss, or when the company should think they can close up and sell the same at the least disadvantage to the stockholders, and without otherwise impairing their charter.

That this company being obliged to fulfil the conditions of its charter, is unable, without serious detriment to the interests of the stockholders, to pay any other taxes or contributions, such as the safety fund act contemplates.

*New-York, April 4, 1833.*

By order of the Board.

JOHN MASON,

*President of the Chemical Manufacturing Comp'y.*

ARCH. CRAIG, *Cashier.*



**IN SENATE,**

**April 4, 1833.**

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**REPORT**

**Of the select committee on the petition of the trustees of school district number four, in the town of Salina.**

**Mr. Seward, from the select committee, to whom was referred the petition of the trustees of school district number four, in the town of Salina, made the following**

**REPORT;**

**The petitioners state, that by an act of the Legislature of 1832, the trustees of school district No. 4, in the town of Salina, were authorised to build a school-house in said district, whenever the inhabitants having a right to vote at district meetings, should, by vote, determine to raise a sum of money for that purpose, not exceeding \$3,000; that it has been in due form determined by the inhabitants of said district to raise the said sum of \$3,000 for the purpose aforesaid; that no lot is owned by the district upon which to erect said school-house; that a part of the land in the village of Syracuse, set apart for the use of coarse salt manufactories, and for that purpose leased by the State to the Syracuse salt manufacturing company, and which is on the west side of Salina-street, has never been occupied by said company, for the purpose of manufacturing salt.**

**The petitioners therefore pray for the passage of a law authorizing and directing the Surveyor-General to lay off from said land so leased and unoccupied as aforesaid, a suitable lot on which to**



erect said school house, and directing the patent to be issued therefor, to the said trustees, and their successors in office.

Annexed to the petition, is an instrument signed by Isaiah Townsend, in behalf of the Syracuse company, who are the lessees of the land set apart for the coarse salt manufactory, consenting to the grant of the premises as prayed for by the petitioners.

By the 10th sect. art. 7th of the Constitution, it is declared that the Legislature shall never sell or dispose of the salt springs belonging to this State, nor the land contiguous thereto, which may be necessary or convenient for their use, but the same shall be and remain the property of this State.

By a report of the Surveyor-General, to whom the petition now under consideration has been referred, it appears that in January, 1828, the Commissioners of the Land-Office set apart for the Syracuse salt manufacturing company, a quantity of ground bounded south by the tract on which the village of Syracuse is built, and east by Salina-street. The ground thus set apart, includes the premises on which it is proposed to erect the school-house. These premises are so much depressed below the level of that on which the evaporating vats are erected, that the company have deemed it inexpedient to occupy the same for the purpose of manufacturing coarse salt.

By a resolution of the Commissioners of the Land-Office, passed May 3d, 1828, for the purpose of designating such lands adjacent to the salt springs as are intended by the Constitution to be reserved, these premises, together with all the other land leased to the salt manufacturing company, are declared to be necessary and convenient for the manufacture of salt.

Against this declaration of the proper officers of the State, we have no evidence that the premises in question are not necessary and convenient for the manufacture of salt, except the fact, that for the reason before mentioned, the lessees have as yet deemed it inexpedient to occupy the premises, and are willing to surrender the interest secured by their lease.

The committee are of opinion that this is insufficient evidence; and when they reflect that the manufacture of salt must be greatly extended, cannot doubt that a compliance with the provision in

the Constitution, herein before mentioned, forbids that the prayer of the petitioners should be granted.

The committee submit the following resolution:

*Resolved,* That the prayer of the petitioners ought not to be granted,



**IN SENATE,**

**April 6, 1833.**

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**MEMORIAL**

**Of the Fulton Bank of the city of New-York, against  
being subjected to, the provisions of the Safety  
Fund Laws.**

*To the honorable the Legislature of the State of New-York, in Se-  
nate and Assembly convened.*

The memorial of the President, Directors and Company of the  
Fulton Bank, of the city of New-York,

**RESPECTFULLY REPRESENTS:**

That your memorialists have understood, that a committee of  
the honorable the Senate had reported to that body a bill in rela-  
tion to certain banks heretofore incorporated by the Legislature  
of the State, and not now subject to the provisions of the act of  
1829, creating what is commonly called the safety fund, and among  
which banks is that of your memorialists, and that by this bill it is  
proposed to bring the bank of your memorialists, with certain other  
banks, under the operation of said act.

And your memorialists further represent, that the bank of your  
memorialists was incorporated on the first day of April, 1824, upon  
the application, among others, of the late Daniel D. Tompkins,  
but upon the express condition, as will appear by the eleventh sec-  
tion of the act incorporating the same, that certain persons, deno-  
minated trustees of the said Daniel D. Tompkins, should be per-  
mitted to subscribe for one hundred and fifty thousand dollars of  
the stock of said bank, and pay for the same in the stock of the  
Richmond Turnpike Company at par, which said last mentioned  
stock was then held by the said trustees, for the use and benefit of  
the said Daniel D. Tompkins.

That the said Fulton Bank complied with the said condition, and went into operation about the twenty-fifth day of January, 1825; and the said Daniel D. Tompkins received the benefit of the said \$150,000 of the stock of the said bank.

And your memorialists further represent, that the stock of the said Richmond Turnpike Company, for which the said bank, by the terms of its charter, was compelled to allow to the said Daniel D. Tompkins one hundred and fifty thousand dollars, turned out to be worth to the said bank, but the sum of seventeen thousand dollars, making a difference in the amount allowed and received by the said bank, of one hundred and thirty-three thousand dollars; the effect of which, your memorialists believe, was well understood by the Legislature, and intended by it as a bonus, to be paid by the said bank for the benefit of the said Daniel D. Tompkins, whose patriotic services presented a strong claim upon the favorable consideration of the Legislature, and the said bank, in accepting said condition, confidently believed that no other charge, tax, imposition, or burthen, would be imposed by the said Legislature, during the period limited for the duration of the said act of incorporation.

And your memorialists therefore submit to your honorable body, that inasmuch as they paid a consideration in the shape of a bonus for the benefit of the said Daniel D. Tompkins, for their said charter, whether, in justice and equity, they should not be exempt from the operation of the contemplated law, or so much thereof as imposes a tax for the benefit of the said fund, denominated the safety fund; hereby submitting to the operation of the said law, so far as relates to the examination by the Commissioners created by the act establishing said fund, or to any other examination which may seem to the honorable the Legislature fit and proper.

And your memorialists will ever pray, &c.

JOHN ADAMS, *Pres't.*  
D. THOMPSON, *Cash'r.*

*New-York, April 4, 1833.*

**IN SENATE,**

**April 9, 1833.**

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**REPORT**

**Of the committee on roads and bridges, on the petition of sundry inhabitants of the county of Allegany.**

The committee on roads and bridges, to which was referred the petition of inhabitants of the county of Allegany, praying for a repeal of the charter of the Bath and Lake Erie turnpike road company, respectfully submit the following

**REPORT:**

The Bath and Lake Erie turnpike company was incorporated in the year 1805, for the purpose of making a road from Bath, in the county of Steuben, to Lake Erie; and under the provisions of their act, the company was organized, about forty miles of the road constructed, and a license from the Governor obtained, authorizing the erection of toll-gates thereon. But the undertaking seems to have been embarrassed by difficulties, and after a few years had elapsed, but little attention was paid to the concerns of the company. This conclusion is drawn from the fact, that in 1815, a law was asked for and obtained, to restore the powers granted by the charter, supposed to have been forfeited by a neglect of more than three years to elect the officers of the company.

By the act of incorporation, the company was bound to make the arched part of the road at least twenty-five feet wide; but by an amendment of the charter in 1808, the road was permitted to be made twenty feet, independent of the side ditches. By a further amendment of the charter in 1817, the time for completing the

road, (which had then expired,) was extended to the first day of November, 1820, and authority given to levy taxes on certain towns in Allegany, to aid in constructing the turnpike.

At the last session of the Legislature, a law was passed declaring thirty miles of the eastern part of the turnpike, a public highway, upon the condition that certain individuals named in the law should file their consent to its provisions within a given time.— This consent, it is understood, was given, and the road accordingly districted and improved as a common public highway. Ten miles are yet claimed by the company as a turnpike.

The petition under consideration, is signed by upwards of two hundred inhabitants of Allegany county, and states that about ten miles of the west section of the road still remains under the control of the charter; but the company has virtually abandoned it, by not keeping up the gates, and by entirely neglecting to repair the road; that the road has become almost impassable, the numerous bridges being much decayed, teams are daily injured, and the lives of travellers exposed to great danger; that the county of Allegany has contributed towards the construction of the road, two thousand five hundred dollars, and is now a stockholder to that amount.

At the last annual meeting of the board of supervisors of that county, by a resolution entered on their minutes of the 23d of November, they relinquish all the interest of the county in the road, and recommend that the inhabitants unite in a petition to the Legislature for a law declaring that part of the said turnpike lying between the westerly termination thereof, and the house of Jesse Gibbs, in Almond, a public highway, and this petition appears to be the result of that recommendation.

From the best information which the committee have been able to obtain, they cannot doubt that the road described by the petitioners has been grossly neglected, and that it is now in a ruinous condition, without a prospect of timely improvement, if continued under the control of the company. It is an important road, and it seems probable that it would be put, and maintained, in a better condition under the operation of the highway regulations in the Revised Statutes, than can be expected from any efforts of the company.

**Public convenience is a paramount object of legislation, so far as it can be effected without actual injustice to individual rights; and in this case, the corporation has so far failed in its undertakings and duties, as to present a case, in which, it seems to the committee, the Legislature may properly interfere, and by law correct the evil. For this purpose the committee have prepared a bill, which, with leave of the Senate, they will introduce.**





**IN SENATE,**

**April 12, 1833.**

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**REPORT**

**Of the committee on finance, on the bill from the Assembly relative to reducing the rate of interest, and sundry remonstrances against the same.**

Mr. Bronson, from the committee on finance, to whom was referred the bill from the Assembly to reduce the rate of interest to 6 per cent and discount to 5½, and guard these rates by the existing usury penalties; and to whom also was referred the several remonstrances from the cities of New-York, Hudson and Albany, and from the county of St. Lawrence, against the passage of said bill,

**REPORTED:**

That the important bearing of the proposed enactment upon the industry of our State, the elaborate discussions had thereon, the anxiety manifested in relation to the measure, and the diversified views of legislators, commend it to the careful consideration of the committee, and demand their best efforts to elucidate a subject somewhat perplexed by subtleties and speculation. They propose,

- 1st. To explain the distinction between capital and currency:
- 2d. Describe the appropriate office of each and the laws which govern them, and allude to our banks:
- 3d. Inquire into the necessity or propriety of regulating by law the hire or interest to be paid for capital.

And 1st. Capital comprises all the commodities of a country which have value, including the soil, mines, manufactories, and

their products, as well as merchandize and the artificial channels, the vehicles, craft, ships, &c. which circulate it.

The amount of capital thus defined, owned or possessed by the citizens of this State, or invested in it, we estimate at a sum not less than 800 millions of dollars.

The valuation by the town and county assessments, including the stock of chartered banks, would amount to about half that sum, allowing for other corporate property not returned by them, for under valuation, for personal property which escapes the assessor, and it is believed the above estimate is below the truth.

The currency of our State amounts to about 14 millions, of which say 12 millions are bank paper, and 2 millions are metal.—Our currency, therefore, bears the proportion to our capital of 14 per cent; that is, for every hundred dollars of capital we possess one and three-fourth dollars in currency.

#### OFFICE OF CURRENCY, AND THE LAWS WHICH GOVERN IT.

The office of currency is to measure capital when it changes owners, or passes from producer to consumer, saving to parties the trouble of seeking out each other and exchanging their products. Thus, a person possessing a commodity and wishing to exchange it for another, first converts it to currency, and with that seeks out the article which he desires to possess. The currency is not an object of desire to either party, except so far as it facilitates the exchange of the commodities they would part with for those they would possess, and it is always dismissed so soon as it has performed this office of measuring the value of the article exchanged, and is again required to minister to the convenience of others in the same manner.

It has been estimated by writers of authority that one dollar of currency would exchange five dollars worth of commodities each year; thus our 14 millions would exchange 70 millions annually. Although currency bears so small a proportion to capital, yet it is of the first importance that it should be well regulated, measuring capital with precision and steady uniformity; for it is this small amount of currency (one and three-fourth dollars to the hundred,) which stamps on capital its *apparent* value; we say apparent, for it does not affect its real or intrinsic value. A well regulated cur-

rency, or in other words, a uniform measure of capital, performs not only our domestic exchanges faithfully, but the foreign also; it regulates our exports and imports with all the precision of which such exchanges are susceptible. But a deranged currency not only exchanges our domestic products imperfectly, but perplexes foreign trade, deranging exports and imports, and baffling the skill of the merchant in his efforts to equalize the markets of the commercial world. Thus a superabundant currency operates upon the capital it measures like a short yard stick, a light weight, or a small measure; while a contracted currency operates like the long stick, the heavy weight, or the large measure. Each extreme is alike mischievous. Abundant or degraded currency *apparently* swells the value of commodities, and we say houses, lands and merchandize are dear, whereas in truth, money is cheap, or currency is degraded. Thus, a man purchasing a farm, or merchandize, at a time when currency was degraded, being too abundant and too cheap by 25 per cent, and being obliged when his payment falls due to convert the same farm or merchandize into a currency restored to its true standard value, would find to his cost that the capital which had been measured to him at \$4,000, and for which he had obligated himself to pay in currency, would, by the corrected and true standard, be measured back at \$3,000, and that he had lost by this derangement of currency 25 per cent of his estate, while the estate itself, the farm or merchandize, had neither gained or lost in its intrinsic value; but his loss had been produced by the use of a fluctuating measure or standard, a loss as fatal to him as if the estate had actually withered to two-thirds of its dimensions under his possession.

The currency of a country will always be best regulated when left free to obey the impulse of commerce, unshackled and unembarrassed by legislation. Such impulse will expand and contract its volume, expel it from a country when it has become abundant, and restore it again when it has become scarce. Commerce tends with all its force to equalize currency as well as all exchangeable commodities among trading communities, at home and abroad; and although, like the tide, it is perpetually ebbing and flowing, and never finds an exact and quiet level, yet commerce will not tolerate great inequalities in the currency of the trading world, unless thwarted by political events or legislative enactments. It is this approach to equality of distribution which constitutes both the utility and perfection of currency.

The process of regulation is as follows: A superabundant currency at a given place becomes a degraded currency, compared with that of the rest of the world. It gives to exchangeable commodities a false value, raising the price of exportable articles until they will not pay cost and freight; then the dollar, the guinea and the doubloon drop their character of currency or measure of value, assume that of merchandize, and take the place of the bushel of wheat, the barrel of flour and the bale of cotton, which the merchant rejects, and go abroad in lieu thereof to pay a debt, or in search of foreign commodities with which to gorge a market rendered voracious by this excess of currency. An equilibrium is soon restored by the four fold operation of refusing to export the domestic products which accumulate at home, where they are useless, by superadding foreign commodities to a market already overstocked with them, and by transferring specie from a country where it is abundant and cheap, to one where it is scarce and dear. Thus money rises, commodities fall, exportation increases, importation diminishes, and the vibration thus produced is not arrested until the redundant currency has become a contracted one; commodities in *their* turn become too *cheap*, and money too *dear*, and the former are sent in search of the latter to restore *again* the equilibrium.

Such are the laws by which commerce and currency mutually govern and control each other, and when the currency consists of metal alone, its ebb and flow is so gradual as never to produce agitation, unless impeded or impelled in its progress by political convulsions or unwise and fickle legislation; an abundance or scarcity is hardly felt before it is corrected.

Not so, when 12 parts of the 14 of our currency is paper, which cannot like metal assume the character of merchandize for exportation. Commerce is then compelled to make all her drafts on this small stock of metal which the banks have collected to her hands and hold ready for banishment at the shortest notice. And at the moment commerce begins to exhaust the metal, the banks, under the influence of a panic, and in obedience to the law of self-preservation, withdraw the largest possible amount of their paper currency in the shortest period of time, until by the combined efforts of all the merchants and all the banks, a pinching and cruel dearth of currency is suddenly produced, measuring out the debtors capital to his more fortunate creditor with unrelenting extortion. It

is true this severe process soon restores order and health to the commercial community, but like the tornado which replaces a pestilent by a salubrious atmosphere, leaves abundant traces of its devastating march.

BANKING.

This important subject, which the Bank Commissioners have discussed with ability, demands from us a brief notice, from its connexion with the subject under consideration.

If our banks could be restrained to their legitimate office, of furnishing our currency, and affording a safe deposit for the idle capital of our citizens, and possessed the power of withdrawing at pleasure a portion of this currency, as it became redundant, without producing revulsions in commerce, they would fulfil the office for which they were created, and prove abundantly useful to the public.

The bank capital of our State amounts to about twenty-five millions, .....	\$25,000,000
The currency, .....	14,000,000
Deposits of idle capital, say .....	10,000,000
Together, .....	<u>\$49,000,000</u>
being the amount of the debt due the banks, excluding the United States branches.	

If we assume that fourteen millions of currency are required to perform the exchanges of our State, then banking capital to an equal amount, say fourteen millions, it is believed would be adequate to our wants, and sufficient for all useful purposes.

Of these fourteen millions of capital, ten might be invested in public stocks, or permanently loaned on bond and mortgage, while the remaining four millions were held in specie; with the capital thus disposed, these banks might safely exchange their credit in bank paper for good commercial bills or notes, payable at two, three and four months, and thus would the banks furnish the fourteen millions of bank currency required, and would hold, in addition to their capital thus secured, fourteen millions of commercial paper, representing the exchangeable commodities of the country, always convertible to currency, and always to be converted and applied to their payment as the discounted bills reached maturity; every

cancelling or payment to be followed by the discount of a new bill and a new issue of bank paper; and thus would a sum equal to such capital be loaned and redeemed four times each year, amounting in the aggregate to fifty-six millions. If each 90 day loan of bank paper performed two exchanges of property before it returned in payment of the bills discounted, one hundred and twelve millions of commodities would be exchanged annually with this bank currency, a larger sum we doubt not than would require the agency of currency.

With such a reservation of specie, say four millions, and with good bills, equal in amount to the currency in circulation, and payable at the rate of more than one per cent, or one hundred and fifty-five thousand dollars per day, being about one million per week, the banks could never be embarrassed, or alarmed by any commercial revulsions, and might witness the exportation of their specie with calm indifference, knowing that a few days' receipts would be equal to any redundancy of currency, they might have issued in exchange for business paper; for it will be recollected that this redundancy cannot be very excessive when confined to such operations, and it should also be borne in mind, that the banker has to provide, in case of emergency, to redeem an amount equal to the difference between the minimum and maximum of the circulation. If ten millions shall be the minimum, and fourteen millions the maximum, then four millions will be the most that can be thrown back upon the banks, leaving at the least ten millions suspended in circulation.

We have thus endeavored briefly to describe strict, rigid and useful banking, a system by which the banker could contract or enlarge his business gradually, and would never, under the influence of panic, diminish the currency so much and so suddenly as greatly to distress a whole community, and would possess the means in his specie and business paper, to meet all exigencies without resort to his bond and mortgage debt, or to his public securities, both of which would stand apart as a safety fund for his bill holder.

If it were necessary to wind up the whole system, and abolish the banks, a single year would suffice to accomplish it, and replace their paper by specie to the amount of fourteen millions; a year of

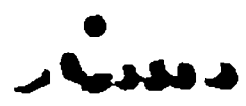
scarcity of money and low prices to be sure, but not of severe distress.

If it be true, as we believe, that fourteen millions of capital, and more than two-thirds of that permanently invested, can be made to sustain a currency adequate to all the wants of our populous and commercial State. a currency convertible to specie at pleasure, and exempt from frequent and excessive fluctuations; the inquiry may well be made, whether there are not defects, dangers and delusions connected with a system which pretends to have absorbed already near twice that amount of capital, and clamorously demands much more, no portion of which is *permanently* invested, but all held, or pretended to be held, in a condition to redeem bank paper, if occasion should put it in requisition.

Not only this bank capital of twenty-five millions, but also the deposit of ten millions idle funds and the fourteen millions of bills receivable, for which bank paper has been exchanged, amounting together to forty-nine millions, pretend to stand ready to redeem at short notice, any portion of these fourteen millions, or rather that portion which can require redemption, being the difference between the minimum and maximum circulation, say four millions. With resources apparently so ample, the call of commerce for a single million of metal produces a serious bank panic, and a sudden contraction of bank currency.

This debt of forty-nine millions, which ought, if made upon banking principles, to produce spontaneously for the redemption of paper half a million per day, requires a severe and protracted pressure upon it to produce two or three millions for an emergency; and if forced to yield four or five millions, a sum equal to eight or ten per cent of the debt, such pressure is attended with widespread ruin and general consternation.

To reconcile such apparent power with such impotent and feeble results, we are forced to the conclusion that many of the rules which ought to govern good banking, are disregarded. That much of the stock, though apparently paid for, is withdrawn, and the holders' paper substituted therefor, in the same or some other bank. That much of the capital is loaned for long-winded operations, as farming, ship-building, long voyages, the erection of manufactories, mills, &c. That much of the discounted paper profess-





ing to be commercial, and representing commodities which can be converted to currency for the payment of the bill, is not strictly such, and that such paper, although paid at maturity, is indebted to some of the many expedients familiar to commercial operations for such payment—expedients, however, which demand new loans, equal in amount to those cancelled, and thus the merchant continues to be a debtor to the bank, not for a small and temporary loan in anticipation of his bills receivable, but for a large proportion of his capital; which, though borrowed temporarily, is retained permanently, and cannot be surrendered in times of pressure without great sacrifice, if not ruin.

The committee cannot command the time or space necessary to explain intelligibly the evils resulting from the combination of so much capital with our currency, compelling them to share the fate of each other, and vainly attempting to subject them to the same laws, by which means both perform their office imperfectly; the capital but half subserves the interests of the borrower, as he holds it by a tenure so precarious as the wants and necessities of the banker—wants and necessities which are sure to press both banker and borrower at the same time, while currency is contracting and expanding by an artificial impulse, which greatly impairs its utility.

While we entertain no doubt of the solvency of our banks and their ultimate ability to redeem their currency, pay their depositors, and restore their capitals to the stockholders, except in the event of a commercial convulsion, yet all this is deemed secondary in importance to their duty of furnishing a uniform and stable currency. It is a law applicable to currency, that it increases in value as it decreases in volume, and decreases in value as it increases in volume. Thus, 10 millions of currency would exchange a given amount of commodities as effectually as 14 millions, with this difference; the contracted standard of 10 millions would give to them a value of about 72 millions, while the 14 millions would expand the same commodities to 100 millions; and if this was the annual amount of our exchanges, a variation of 4 millions in our currency, the difference between the extremes of a contracted or an expanded circulation, would ~~raise~~ or depress their value by 28 millions in one year, a sum equal to twice the amount of our currency; and when we estimate the mischiefs produced by applying a fluctuating and unstable currency to such an amount of exchanges;

*raise*

its gambling influence, unsettling prices, enriching some, impoverishing others, and embarrassing all, by baffling and mocking their calculations, the consideration that our safety fund of a few hundred thousand dollars will protect us against an occasional loss in the currency of a broken bank, loses all its importance. Such failure and loss would be abundantly compensated, if they would teach caution to the public, and skill and prudence to the banker.

Notwithstanding bank charters have absorbed so much of our active capital, to the prejudice of long winded and permanent operations, stimulating trade and commerce almost to intoxication; notwithstanding the many villages of the interior are laid under contribution for their last dollar to gorge with capital and stimulate to excess the favored few having bank charters, still the mania for charters threatens to swallow all our floating capital, leaving no other resource than banks for borrowers.

It is believed that restraining banks in their discount to 6 per cent would tend to improve the character of their debt, by inducing them to reject long loans and collect more rigidly. And that restraining them in their issues to the amount of their capitals, (instead of twice the amount,) would check the efforts of a part of the small country banks to extend their circulation; banks, which with limited means for redemption, and emboldened by their high credit derived from the safety fund, push their operations beyond the limit of prudence, and fill up, by their circulation, the vacuum, if any, left by their more cautious competitors. Such restraint might reduce the circulation of the country banks from eight millions, its present amount, to seven millions, or from about the amount of their aggregate capitals to seven-eighths of that amount, counteracting the general tendency to overload currency.

Both restraints would tend, in some small degree, to check the flow of capital into the bank channel.

### OF CAPITAL.

In discussing the subject of capital, the laws which govern it, and the interest or price paid for its use, the committee will study to avoid all allusion to currency; and when they speak of interest they are to be understood as meaning the *hire of capital*; by which means they hope to relieve these subjects from the perplexing ob-

security which has enveloped them when capital and currency were confounded.

Capital does not expand and contract with the same elasticity, or ebb and flow with the same rapidity, as the currency by which it is measured; nor does it obey the same laws. It is the fruit of industry, skill and economy. Under a good government, and in a community well regulated, its accumulation is constant and rapid, and the largest accumulations are found in the oldest countries thus governed and thus regulated. Its constant tendency is to flow off from these abundant and swollen fountains, and in the direction which promises the best return with the greatest security, whether that return be yielded in the shape of interest for loans, dividends on investments, commercial and manufacturing enterprizes, or land speculations.

The same law which diffuses capital from fountain to rill, from an old to a new country, also requires at all points its perpetual and ceaseless change of investment, as one subject allures with more force than another; and thus do the various branches of industry approach and maintain their level.

It is believed that of the eight hundred millions of capital belonging to and in the possession of the citizens of our State, at least four hundred millions of dollars are lent and borrowed at from four to fourteen per cent interest per annum. When it is considered that the bond and mortgage debt of the city of New-York exceeds forty millions; that the debt on personal security must be still larger; that our bank loans of capital, excluding currency, are between thirty and forty millions; add to these large items the debts due the foreign land-holders, as the Holland Company, the Pulteney, the Parish, the Chaumont and the Hornby estates, with many others of less magnitude; the three millions loaned by the Life Insurance and Trust Company, and an equal amount by the Saving's banks; the Connecticut school fund debt, and the vast amount of foreign and domestic debt due to and from individuals; this estimate will not be deemed an exaggeration.

With a debt so vast, being equal in amount to twenty-eight times our currency, and with such a propensity in our citizens to borrow and lend, it may be well to inquire whether its influence is salutary or pernicious, whether it should be tolerated or prohibited, encouraged or restrained; and to the committee it is consoling to be-

lieve, that this debt, vast as it is, produces public benefits proportioned to its magnitude.

The committee will assume that capital cannot be too abundant in any country, or too widely diffused, provided that diffusion is gradual. To deny this proposition would be to assert that we had cultivated and stocked too many farms, had built too many houses, mills, manufactories and ships, or had accumulated too much merchandize.

### HIRE OR INTEREST OF CAPITAL.

Capital cannot be made to yield capital again, without combining with it skill and labor, nor can skill and labor be made to yield capital, (beyond the hireling or servant's pay,) without combining capital with them. Now it so happens in the wise ordering of nature, that the ability of the possessor to apply this labor and skill to the management of his capital, diminishes in the ratio of the increase of such capital, and that from two causes; first from the increased labor of managing such accumulated capital, and second from the decay of physical and mental powers by the approach of age; hence the man who has acquired wealth, finds *his* interest in lending it, or in investing to be loaned or managed by corporations. While every man in our community, where the field for enterprise is broad and ample, whose education, talents, occupation and skill fit him for a station above the servant or day-laborer, being destitute of means, finds *his* interest also in borrowing, to the end that he may turn his talents and acquirements to profitable account. Even the mechanic, without a patrimony, could not avail himself of years of indented service, unless he could borrow a shop and tools; nor the student of law and medicine of their mental acquirements, without their borrowed libraries; or the indigent farmer or merchant of their skill, without the borrowed farm or merchandize. Both parties therefore, find a mutual interest impelling them to lend and borrow; nor does the interest of the parties conflict with that of the public, as these loans diffuse and augment capital, affording aliment for labor, and yielding to humble industry an ample reward.

It is believed all these objects are best promoted, and capital most widely diffused, by loaning it in minute portions; thus combining the greatest amount of labor and skill with a given amount of capital, yielding in the aggregate the largest amount of revenue.

To illustrate: If a capitalist possessing \$100,000 dollars, should invest this sum in the purchase and culture of one hundred farms, worth each \$1,000, these hundred farms could have the benefit of the superintending skill and labor of one man only, and it cannot be doubted that such an investment would be wholly unproductive of revenue; whereas these hundred farms loaned to one hundred young, efficient and skilful farmers, would have the benefit of the superintending skill and labor of one hundred men, yielding to the lender seventy dollars each, or an aggregate of seven thousand dollars, and would yield to the borrowers the support of one hundred families, and a gradually increasing surplus, until the whole debt of one hundred thousand dollars should be ultimately extinguished and the farms doubled or trebled in value; such is the rapid process of accumulation in a country like ours, by the judicious combination of capital and labor.\*

The capitalist undertaking to manage a hundred ships, mills or stores, could not prosper better than the farming experiment. Although capital thus divided into minute parcels yields the largest return, and can afford to pay the highest rate of interest, yet it may be advantageously borrowed in larger sums, and for more extended and costly operations, as manufacturing, navigation, &c. and the capitalist is content in such cases with a lower rate of interest, as he is saved the trouble of multiplying his transactions, and of re-investing so frequently. Capital, therefore, when loaned, has its wholesale and retail price or rate of interest.

### USURY.

The committee being satisfied of the utility of borrowing and lending, it remains to inquire what regulations and restraints the law should impose upon these contracts. The most essential part of the contract, that of fixing the *value* of the capital borrowed, or the sum on which interest is to be charged, when that capital does not undergo the process of transmutation to currency, but passes direct from lender to borrower, has never been deemed a subject

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\* The committee are aware that our frontier settlements afford exceptions to this rule so numerous, as to furnish a plausible argument against our present rate of interest. But these settlements were made during a period of five or six years succeeding the late war, the flood of emigration breaking away at that time, which had been restrained for a quarter of a century by a prosperous foreign trade, the temporary prosperity of manufactures on the sea board, and the hostile and unsettled condition of the frontiers. When this settlement was making, our currency was exceedingly degraded by a long suspension of specie payments, baffling the skill and deranging the contracts of landlord and settler. One company alone have since abated near a million of dollars in principal, besides a large amount of interest, to conform these contracts to a regulated standard of currency, and also to the depressed legal price of United States lands.

proper for regulation by legislative enactment or supervision; thus the price or value of the farm, the cotton mill, or the ship, is left to the exercise of individual discretion and skill, and even the forbearance or interest, technically called rent or charter, may be settled by the parties in all cases where the *same* farm, cotton mill or ship are to be returned, no matter how remote the period of restoration; but when the *value* of the farm, cotton mill, or ship is to be restored in their several products, agricultural, manufactured or commercial, and these products are to be converted to currency, then legislation has decided that the case comes within its province, and the interest, hire, charter, or forbearance, is no longer a fit subject for the exercise of individual skill and agreement. Nor is this all, or the worst of all. Legislation has also decided, (if the agency of currency happens to be invoked,) that all lending and borrowing shall conform to one standard, and that an arbitrary one, which yields to no exigency, a standard at or below which all must lend and borrow, without regard to abundance or scarcity of capital, amount of loan, nature of security, prospect of gain, or hazard of loss.

And yet this legal standard, which professes to regulate interest so rigidly, performs almost any other office than that of regulating. When the market rate of interest is below the legal rate, the law has no regulating force, capital is then loaned at the market rate, the law being a dead letter. When the market rate at one place is below, and at another above the legal rate—for instance six per cent on Long-Island and eight per cent at Chautauque, the legal rate of seven per cent, guarded by penalties, instead of equalizing the interest of the two places, as it professes to do, would tend with all its force to increase the disparity, by checking the flow of capital from the cheap to the dear region, depressing the market rate to five per cent on Long-Island, and raising it to nine per cent in Chautauque, *deranging* instead of *regulating*. When the market rate of interest at retail, or for sums of small amount, exceeds seven per cent, instead of regulating for this valuable class of borrowers, the law denies to them the use of capital, and in effect forbids their borrowing at all, while it secures to the large borrower and the best security, the monopoly of borrowing.

Another class of borrowers, though not regulated by legal enactments, are greatly embarrassed and oppressed by them. We

allude to the class whose moral integrity forbids the suspicion that they will avail themselves of the penalties of a law, the proffered protection of which they are willing to waive; and it is creditable to our community that this class is numerous, comprising, with many others, almost the entire mercantile population; but as the class of lenders are far less numerous than the borrowers, and many of them are deterred by moral restraint, and others by suspicion and timidity from making loans at high interest, this large class of honorable borrowers are consigned to the mercy of a few lenders, and those the most enterprising and least scrupulous of their order, while their more scrupulous competitors retire from the field to avail themselves of the thousand doors thrown wide open for the profitable investment of their capital, by means of a temporary scarcity thus aggravated by their own change of pursuit. Even the lender himself, whose conscience would not tolerate a ten per cent loan, may, with a clear conscience, and under the protection of law, purchase the estate of the person to whom he had refused the loan, at a price which will yield twenty per cent profit, and at a sale rendered necessary perhaps by such refusal.

It is notorious that the market rate of interest is often, and at places almost always below the legal standard, as at present regulated. Such standard, therefore, only operates where the market rate exceeds this limit, and then it works positive mischief by checking an influx of capital, which a high market would lure from abroad; locking up at home by investment what had been loaned, denying to the borrower his accustomed supply, expelling capital and turning it into new channels, raising the market price extravagantly, and securing to a few the monopoly of lending at such exaggerated rates, deranging industry, and forcing our citizens to a frequent change of pursuit; and all this without, as we believe, one solitary benefit to atone for so much mischief.

When the crops of a country fail, famine is prevented by a rise in the price of bread-stuffs, which rise operates beneficially two ways: it allures a supply from foreign countries, and it also induces each one to curtail his consumption as much as possible. What would be thought, in this age, of a law that should counteract this salutary rule of commerce, and from a mistaken kindness to the poor, prevent a rise in the price of bread-stuffs? All laws restraining the price or hire of capital operate like such a law, with this difference, that the famine would fall indiscriminately



upon all who did not possess bread, although they could command the means to buy at the cheap legal rate, but in the dearth produced by the attempt to make capital cheap, the whole calamity falls upon the borrower, the unfortunate victim of legislative *care*.

Our statute fixing interest, forbids us, under penalties, to invite capital by the allurements of high prices to our market, and forces us to contract our business by bankruptcy and ruin to the quantity of capital which under, or in spite of the legal standard, can be had. It is precisely as if a famished city should kill its inhabitants, till the numbers left were proportioned to the quantity of food on hand.

The committee are aware that improvident and ruinous loans are contracted, and would continue to be with or without legal restraint; but so far from requiring legislative interposition, these losses are the only legitimate and effectual restraints upon improvident borrowing.

Capital is borrowed solely with a view to gain; a pledge is required by the lender equivalent to the loan, which pledge is surrendered if the capital is dissipated. Here then are two motives of equal force to guide and control the borrower—the hope of gain and the fear of loss. If the hope of gain be strong, the fear of loss is equally so; if the desire for acquisition be inordinate, the fear of loss will be equally controlling.

With hopes and fears thus balanced, experience and observation alone are required to guide the judgment, and nothing can be more impressive and admonitory than to witness a neighbor struggling for years, and sinking at last under a load of debt charged with a high rate of interest; all who witnessed would avoid the danger as they value their former acquisitions or their future hopes.

Losses are incident to all pursuits having gain for their object, and they admonish to prudence and caution. Ship building ceases when low freights give warning to the merchant that navigation has been pushed to excess—importations are arrested by a losing market—so money borrowing ceases when it results in loss.

The committee have come to the conclusion that the best interests of the State will be advanced,

1st. In promoting the free circulation of foreign and domestic capital over our State, by giving stability and security to its invest-



ment, and by extending legislative facilities to associations who borrow and lend capital unconnected with currency—as Savings banks, Trust companies, &c.

2d. By restraining banks in their circulation to the amount of their capitals, and by restraining them in their discounts to 6 per cent.

3d. By repealing the usury penalties, except in relation to banks, and fixing the legal rate of interest at 6 per cent.

If, however, the usury penalties should not be repealed, we would object to reducing the limit of interest from 7 per cent; which seldom presses upon the market rate, except in the new parts of our State and fixing that limit at 6 per cent, which in many parts of our State, and at all times, would press upon the market rate, aggravating the evils incident to the present standard of interest. If these amendments generally should not prevail, then we would respectfully recommend that the further progress of the bill under consideration be arrested, in conformity with the prayer of all the memorials addressed to the Senate.

**No. 107.**

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**IN SENATE,**

**April 12, 1833.**

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**MEMORIAL**

**Of Philip Church, in behalf of himself and others, the western corporators of the New-York and Lake Erie Rail-Road Company, for a subscription to the stock of said company by the State, of \$5,500,000, and for other purposes.**

*To the Honorable the Legislature of the State of New-York.*

The memorial of those of the corporators of the New-York and Erie Rail-Road Company, who have held their meetings in the western part of the State, by their committee,

**RESPECTFULLY SHOWETH:**

That an act was passed at the last session of the Legislature incorporating a company for the purpose of constructing a rail-road, from the city of New-York, through the southern tier of counties, to some point on Lake Erie between Pennsylvania line and the mouth of Cattaraugus creek.

New-York is the only port in the northern portion of our continent, open to navigation during the whole year; the point designated on lake Erie for the termination of the rail-road is navigable during the spring and winter seasons, about from six to eight weeks longer than the lower and more confined part of the lake with which the Erie canal is connected. The country intervening between the extreme points of the proposed rail-road consists of the southern counties of the State, in extension about 338 miles by 40; and of the northern counties of Pennsylvania, a district of 210 by 30 miles, amounting all together to 19,850 square miles, or 12,704,000 acres.

[Senate, No. 107.]

By a report to the Senate of February 12, 1827, the cost of the			
Champlain canal was,	....	\$1,179,871	05
Erie	“ “ ....	9,027,456	95
		<hr/>	\$10,207,328 00

Cayuga and Seneca canal,...	\$214,000	31
Oswego, .....	525,115	37
Crooked Lake,.....	120,000	00
Chemung canal add, .....	300,000	00
	<hr/>	1,159,115 68

But why, may be asked, add the Chemung canal, it is in the southern tier of counties? The distance between the head of the Seneca lake and the Chemung river is 18 miles, the navigation of the former, as before stated, scarcely ever interrupted by ice; the latter navigable in the spring, from 4 to 6 weeks earlier than the canal will be. Can it be supposed that the inhabitants of the county of Tioga will delay sending their produce to market rather than convey it a distance of nine miles, at farthest, to one or other of the points of more early navigation? Still less is it to be expected that the produce descending, during the early spring freshet, the rivers rising in the southern tier of counties, and in the northern counties of Pennsylvania, will be subjected to the expense of breaking bulk, of storage on the shores of the Chenango, of a delay of several

weeks, and then, to a very circuitous transportation by the way of Albany to New-York, rather than continue its course down the river, immediately and directly to Baltimore. The Chemung canal, in truth, is constructing for the very important purpose it professed to be, to supply Pennsylvania with the salt and gypsum of our northern counties, in exchange for her iron and coal.

Thus has an amount of from between eleven and twelve millions of dollars been appropriated exclusively and solely for the benefit of the northern counties; accompanied with repeated denials, if the facts and reasonings as to the Chemung canal are admitted to be correct, of even one single solitary cent, or one single solitary improvement, for the benefit of the inhabitants of the southern tier of counties.

The principle upon which is founded the payment of the cost of roads and canals, is a toll collected from each individual, in proportion to the advantage derived from, and injuries caused in the use of them. The great magnitude and nationality of internal improvements may justify their construction by a tax on the property and industry of the population residing in the districts adjoining to or connected by them; upon these they undoubtedly confer great value and benefit; but the tax is imposed always under the express or implied understanding, that it shall be modified according to circumstances, in proportion as the tolls indicate a likelihood of redeeming, even at a very remote period, the amount of the cost.

When it was proposed to levy taxes for the construction of the Erie and Champlain canals, a very considerable and influential portion of the population, to be the most immediately benefitted, made a decided opposition. The inhabitants of the southern tier of counties received the attempt to tax them, for the exclusive advantage of others, and for improvements from which they could not derive the smallest incidental benefits, as a strong and unjust violation of their rights, more especially as they could not but foresee, what experience has since too fatally proven, that should these projects succeed, the actual positive injuries would be many and extensive; if they failed, either in construction or emolument, their property would be mortgaged for an accumulating and overwhelming debt. We were nevertheless induced, by promises of granting to us reciprocal improvements, by appeals to our patriotism, and, more particularly, by the imposition of a direct tax upon the districts

through which these canals were to pass, to surrender our opposition, and yield our support to those two great and extensive State improvements. How have our northern fellow-citizens redeemed their pledge? How have they reciprocated our liberality towards them? The first step was to repeal the direct tax on the lands adjoining the canal, the identical tax that was held out to us as an inducement to accede to the duty on goods sold at auction, and that most burdensome tax on salt, more especially burdensome to the southern tier of counties, by converting that essential article of life from an exchangeable to a cash article.

In a few years great progress was made in the construction of the canals, and it became easy to foresee that the transportation on them, when finished, would furnish tolls sufficient to redeem the debt.

On every principle of justice, these duties and taxes, either in part or altogether, should then have been modified or converted into tolls; on the contrary all modification or conversion was precluded by making them part of the Constitution.

The inhabitants of the southern tier of counties then called upon their northern brethren to perform their promises, and made great and simultaneous efforts to obtain an appropriation for some important leading improvement; they have been repeatedly met with refusals, and yet the northern districts have succeeded in procuring many additional grants, to the amount of 1,159,115.68 dollars for the construction of four canals, heretofore mentioned; not one of them possessing the character either of magnitude or of nationality.

Is it surprising that the keen perception of the public should have fixed upon us the appellation of the "sequestered counties," in the true acceptance of the word, "the counties set aside from the use of the owners, to that of others?" Disheartened by so many refusals, the inhabitants of the southern tier petitioned the Legislature at their last session, to grant them a charter for a rail-road; with the hope of constructing it, partly by the aid of the State, and partly by individual efforts, a mode of constructing great enterprises by many deemed the most beneficial and advantageous. Numerous as were the applications for rail-road charters, the Legislature, as a matter of course, granted all of them, with the excep-

tion of one for the construction of a rail-road along the margin of the Erie canal. To our application alone was a resistance offered, on the grounds that we avowed our intention, of following up the proposed grant of a charter, by an application to the Legislature for its fostering protection, aid, and association. The opposition very nearly succeeded in one of the legislative branches; and undoubtedly would have succeeded, had not the last Legislature taken a true and just view of the course of conduct which has been adopted towards our district of country.

It is under these circumstances, that your memorialists respectfully pray the Legislature to authorise, on the part of the State, a subscription to the stock of the New-York and Erie rail-road company, of \$5,683,221.89, and that the sum be raised by a pledge of the canal fund, subject to the redemption of the present canal debt. The above amount is one-half of the \$11,366,443.78, which has been granted to our northern brethren for the construction of the Champlain and Erie canals, and of the four minor canals.

It has been asserted, and doubtless believed, that the population of the southern tier of counties, and consequently its products, to be so small, as not to entitle us to any species of internal improvement. The following calculations, if not absolutely correct, are believed to be a very near approximation:

By the State census of 1814, three years before the commencement of the Erie canal, the population of the northern tier of counties, bordering on the route of the canal from Buffalo to Albany, inclusive, and also including the city of New-York, the northern one-fourth of Chenango, three-fifths of Cortland, and two-thirds of Otsego, was..... 487,509

Under the supposition that the rail-road will be commenced in the year 1835, what was the population of the southern or rail-road district in 1832? By the United States census of 1830 the population of the southern tier of counties, bordering upon the proposed rail-road, including the city of New-York, and the southern three-fourths of Chenango, two-fifths of Cortland, and one-third of Otsego, was..... 624,149

Two years increase, calculated on the same proportion as the increase of the preceding five years,..... 70,000

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Carried forward,.....

Brought forward,.....

The population of the Pennsylvania counties adjoining the New-York line, as far east only as the Delaware, was .....	95,972
Having no data by which to estimate the probable increase of these counties, give to them the same ratio as to the New-York counties, .....	10,000
	<hr/>
Population in 1832, .....	800,121
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An excess of population in the southern or rail-road district, of 313,112 over the northern or canal district; or nearly as 7 to 4.

In the congressional sessions of 1832, it was stated in debate, "that while in 1810 there were 10 vessels on Lake Erie, there were then 100; and that it was navigated" (must mean traversed) "by 100,000 persons annually. The shipping that entered Buffalo in 1831 was 75,000 tons."

Of the northern counties of Pennsylvania bordering upon the New-York line, the eastern portion abound with anthracite coal and iron ore; the western with bituminous coal and iron ore. The waters of the latter flow towards the line of the proposed rail-road.

The rail-road not running near the shores of a great lake, but completely through the interior, will command the transportation of a district of country of probably one-fourth greater extent than the canal now does.

It will be by means of the Cayuga and Seneca lakes connected with the northern counties of the western district of the State, and by the peculiar character of the latter lake, the connection will be uninterrupted in winter. At its termination on Lake Erie it will enjoy the commerce and travel of the northern lakes six or eight weeks longer than the canal does; and it will give to the southern section of the State, to these different points of connection with populous and distant prosperous interiors, an uninterrupted, or nearly uninterrupted communication throughout the year, for persons, property, and correspondence, with the open port of New-York, and through that permanent outlet, with other extensive portions of our Union, and with all foreign nations.

There still remains in the minds of many a belief that the southern tier of counties is so mountainous as not to admit of the intended, or indeed of any improvement.

Against either local feelings or prejudices there is no reasoning; they can be removed by nothing but the inspection of ourselves or of persons upon whose impartiality and judgment we can place the utmost reliance.

Your memorialists, therefore, pray the Legislature to appoint commissioners to explore or survey the whole distance from New-York to Lake Erie; and to make their report on the first day of the next year's session.

In the latitude of the State of New-York, the frost, and the alternations of frost and thaw, during the winter and part of the spring months, present great obstacles to, and form the most serious and extensive deductions from the advantages of internal improvements. Canals are not only very much injured, but are annually rendered for several months totally useless; and the sudden and frequent alternations of the climate, more especially in spring, causes our roads to become almost impassable.

The rail-road undoubtedly remedies these evils to a very great extent; to a much greater than the advocates for canals exclusively, are willing to admit: on the other hand, it ought to be considered, by the advocates of rail-roads exclusively, that they have not as yet been constructed so as to afford, in this climate, an unbroken uninterrupted communication.

The result of rather extensive, and very strict inquiries, have shown, that in this and more southern States, the alternations of the climate sometimes dislodge the foundation stones, materially affecting the parallelism of the rails; that a thin coat of ice forming on the rails entirely stops the progress of the locomotive; and that its advance is also essentially retarded by a very great depth of snow. The successful efforts that have been made in England to surmount the two first obstacles evince their existence in the comparatively milder climate of that island.

At the last meeting of the western corporators, it was resolved that a memorial containing a request of the Legislature to direct that every alternate meeting of the directors of the company be



held in the town of Erwin, or at some place in the southern tier of counties, to the westward thereof; a request which the committee pray of the Legislature to grant.

It was also resolved, that the Legislature be requested to make an appropriation of a sufficient sum of money for the payment of premiums to those who may give valuable information in reply to the queries to be propounded to scientific, practical and other persons, on the construction and use of rail-roads and rail-road carriages, and machinery; and that the committee draft the above queries. It soon became evident that obstacles would occur in the performance of the last duty imposed by the corporators, which the committee could arrogate to itself neither the knowledge nor the capacity of overcoming. To propound queries, on the complicated subject of any internal improvement, requires a variety and extent of perception and of information, the possession of which can scarcely fall to the lot of any individual; much less can it be expected upon so novel a subject as the construction of a rail-road, to be adapted to the admission upon it of high and rapid velocities. Nor could a committee of corporators command, or enforce, such answers from persons engaged and interested in the construction of any improvement, that might tend to lessen its value in the consideration of the public; the great excitement also, which exists between the exclusive advocates of canals, and of rail-roads, precludes, to an extent not easily to be imagined, the probability of arriving at any thing like accuracy, except by the investigation of a judicial tribunal.

The committee of the corporators, therefore, beg permission most respectfully, but most earnestly, to suggest to the Legislature the necessity of appointing a committee of its members, with authority to make, during the recess, the desired investigation; to offer the necessary premiums, and to make their report to the next session of the Legislature.

Although the committee has found itself obliged to decline the attempt of making the requisite inquiries, to the extent imposed by the western corporators; it would not feel itself justified in neglecting, altogether, a subject so important to the interests of the proposed improvement. It has, therefore, confined itself to the result of such investigations as it has had the opportunity of making, in regard to the means that have been applied or recommended, for

the counteraction of the effect of frost, of the alternations of climate, and of snow, upon the rail-roads of other countries, and of our sister States; together with the suggestion of principles, which it is hoped may be successfully applied to counteract those obstacles, existing as they do, to a still greater degree, in our own State.

These will be found in the accompanying plates, references and communications.

Your memorialists as in duty bound will ever pray.

PHILIP CHURCH,

*Committee of the Western Corporators, to draft memorial, and to propose to the Legislature to grant premiums, &c. &c.*



## DOCUMENTS.

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All internal improvements are very much injured and interrupted, owing to the soil being, it may be said, in constant motion, by the operation upon it of the climate, in its continual variations and changes, from dryness to moisture, and from heat to cold. In our northern climate, the rapid and violent alternations of heat and cold, render it more especially difficult to give fixedness to the foundation of a rail-road.\*

Even in the more moderate climate of England, these difficulties are of constant occurrence;† they have, many years since, been obviated; but not by giving fixedness to the foundation stone of the rail-road. The chair has a circular top, is firmly attached to the foundation stone, moves with, and is part of it. The rails are fastened by a circular pin driven through them, and the sides of the chair, and they rest on the circular top of the chair. Whenever the foundation is displaced, by the operation of the climate or otherwise, its circular top revolves under the rails, still supporting, but not displacing them.‡

William Strickland, Esqr. a citizen of Philadelphia, in the year 1825, was sent to England by the Pennsylvania society for the promotion of internal improvements, to collect information on all subjects calculated to promote the objects of the society. It is from

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\* The operations of heat and cold are very perplexing. Heat expands and cold contracts bodies. Heat expands water or moisture into steam; but water or moisture is also expanded by cold. A very thick cannon, cast with a very small bore, filled with water and closely stopped, was exposed at Petersburg, to extreme cold; the water freezing, burst the cannon as gunpowder would have done. To this paradox, Professor Silliman has verbally given the following explanation. Water or moisture, in its expansive state, is contracted by cold, until the cold becomes so severe as to produce frost. In the transition of water, from a liquid to a frozen state, it is formed into crystals: this change of form causes an expansion which nothing can repress. Changes to which the soil is subject, by the alternations of dryness and moisture, of heat and cold; and their combined operations upon each other, render it very difficult, as every occupant of the country must have experienced, to give strength or permanency to any post or fixture placed in the soil.

† See plate 1, F, I, X, and the American edition of Wood, pages 47, 48, 49, &c.

‡ See plate 47, taken from Strickland, as are also the following references:

Edge rail used on the Hetton road.

Top view, with the half lap joint.

Side view in the chair.

End view in the chair.

A A. The cast iron chains with the holes through which they are pinned to the foundation stone.

B B. The joints made by the ends of the rail, applied to each other in what is called a half lap.

D D. Section of a cylinder, forming part of the chair, on the apex of which the ends of both rails bear, so that if the chair moves upon the pin G, in the direction of the line of way, the ends of the rails will still retain their relative position.

G. A pin or bolt, which passes through a hole in each side of the chair, and in each of the rails, and secures them together.

his most able and valuable reports, the plate referred to has been extracted, and annexed to this communication.

In page 24th, Mr. Strickland observes: "It is important for me to remark, while upon this portion of the subject, that foundations formed in the manner above described, would not stand the changes and severity of the climate of Pennsylvania, without some additional precaution. I will therefore suggest some plans which I am of opinion will answer the purpose substantially without much increase of cost. Where blocks of stone can be easily and cheaply obtained of various lengths on the line of the road, they ought to be used in the following manner, viz: dig out shallow holes about a foot or eighteen inches in depth, at four feet apart from centre to centre, and fill them in with small broken stone or gravel, flush with the surface of the road upon which the foundation props may be laid and bedded securely from the action of the frost. Where stone is not to be had but at an expensive rate, I would recommend the use of scantling pieces of oak or locust, six inches by eight inches, and of various lengths, not less than two feet, which may be sawed out of one another lengthwise in the shape of a long wedge. These should be driven into the bottom of a square or round pit, dug out about two feet in width, and from two to three feet in depth, and the pit afterwards filled up with broken stone, rammed in on all sides. The effect of the stone will be to keep the post or prop firm in its place, and to prevent its rising up by the action of the frost, which can have no power to move it laterally. When the posts have been secured in this manner, the heads of them throughout any section of the line may be sawed off to the proper level. The iron chairs or standards must in this case be cast with a flange on the bottom, of three inches in depth; and a corresponding mortise cut into the head of the post, to receive the flange of the chair, which may be pinned through in the usual manner of mortise and tenon." See plate No, 43, annexed to this communication.

In the climate of New-York, still more severe than that either of England or Pennsylvania, the committee suggests the foundation stones of rail-roads to be made in the form of an upright cone, (See plate 43, figure XIII,) about 24 inches square at bottom, 8 inches square at top, and 30 inches in height.

The violent changes of our climate are continually causing the soil to contract and adhere to square or round stones or posts, more especially if their sides be rough and uneven; when the soil expands and rises it displaces or raises the posts, with a force not to be resisted.

The expansion of the soil operating upon the sides of a cone rather presses it down than otherwise, and when it rises loosens its hold and recedes from the cone. It is presumed this character of the cone induced the Egyptians, in building upon the flat and soft lands annually overflowed by the Nile, to construct their pyramids, Cleopatra's Needle, the Pyramidal Propylon, and other immense structures, in the shape of a four sided cone. (See M. Russell's View of Ancient and Modern Egypt.)

In Holland also, where they have to contend with the flat and soft soil as that of Egypt, with the addition of severe frosts, the foundations of their houses are of a similar shape; and when some of the natives of that country migrated to the shores of the Hudson, to a spot consisting, it is true, of both hill and flat land, yet the soil of the former remarkable for its want of firmness and tenacity, they built the foundation of their houses of the same shape. The antique houses yet remaining in Albany are monuments of firmness and durability, while the modern buildings erected a long period subsequently, and after this principle had been forgotten, are many of them injured by the settling and displacement of their walls.

Very smooth ice forming on the rails destroys the adhesion of the wheels of the locomotive engine. The committee have been informed by those who have been eye witnesses, that this is obviated on the Liverpool and Manchester rail-road, by placing one of the cars before the locomotive; the wheels of the car easily break and displace the ice.

It is understood snow is removed from the Baltimore and Ohio rail-road by a machine preceding the locomotive, supposed to be in the shape of a double moulded plough, and is perhaps what is termed the Swedish snow plough.

The use of a snow plough extending across the whole width of a rail-road, on rails within a few inches of the ground, would produce in our deep snows very considerable retardation. It is proposed to build our rails a considerable height from the earth, which with our great command of wood can be easily accomplished, in some such mode as the following.

	ft.	in.
The top of the cone will be higher than the ground,.....	0	06
On each cone place a block of wood 12 inches square and		
14 inches in height,.....	1	02
Tying the bottom of the blocks together by transverse		
beams, and the tops of the blocks together by longitudinal		
beams, on these blocks place rails, say 5 inches by 12,...	1	

Top of the rails higher than the ground,..... 2 08

Snow very seldom lies to the depth of two feet eight inches; small snow ploughs would readily clear the rails of snow. The accumulation of snow in the space between the rails would be of no importance where horse power was not made use of.

It might be difficult to fasten rails of the depth of 12 inches so firmly in the chairs as to prevent leverage; in that event they may be rendered firm by transverse beams, connecting the opposite and parallel rails, midway between the cones,

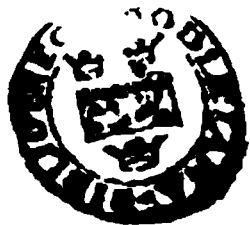


**No. 108.**

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**IN SENATE,**

**April 13, 1833.**



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**PETITION**

**Of PALMER CANFIELD, on the subject of lotteries.**

**TO THE HONORABLE THE LEGISLATURE OF THE  
STATE OF NEW-YORK.**

**The Petition of the Subscriber,**

**RESPECTFULLY SHEWETH:**

That your petitioner is a citizen of the State of New-York; and that for the period of about ten years, to wit, from the month of August 1820, to the close of the year 1830, your petitioner was generally engaged in vending lottery tickets in the city and county of New-York, and in lotteries authorised or claimed to be authorised by the Legislature of this State; and that your petitioner, year after year, paid the annual license tax, required by law to entitle him to the privilege of vending tickets and shares of tickets, in lotteries authorised by the laws of this State.

That when your petitioner first commenced the business of vending tickets in said lotteries on his own account, the lotteries were under the direction of four managers, who were appointed to superintend or to conduct and draw the same on behalf of the State, and who were subject to the supervision of the Comptroller of this State: That by the tenor of the then existing laws for the regulation of lotteries, venders were bound to pay a license tax, annually, which entitled them not only to sell tickets, but to buy from the managers, on the first publication of a scheme, at scheme price, for cash; or, at scheme price, for approved notes, payable twenty days after the completion of the drawing of such scheme or class, with interest thereupon at the rate of three per cent per annum.

[Senate, No. 108.]

I



That by an act passed on the 5th day of April 1822, entitled "An act to limit the continuance of lotteries," the several literary institutions interested in the lotteries granted by the act passed on the 13th day of April 1814, entitled "An act instituting a lottery for the promotion of literature and other purposes," were authorised, on certain conditions set forth in said act of April 5th, 1822, to take the control of these said lotteries, and assume the management thereof, and to make such contract or contracts in relation thereto with any person or persons they might deem proper; and it was expressly stipulated in said act of April 5th, 1822, that said institutions were to receive the avails and hazard the losses, and be responsible for the payment of the prizes of said lottery for a limited time, in lieu of, and as an equivalent for the several specific grants made to said institutions on the 13th day of April 1814, *provided* said institutions would accept thereof, for any *limited time*, *less* than the time in which the State could raise and pay said grants, at the rate monies had been hitherto raised by lottery and paid to said institutions; or, in case said institutions would accept thereof *for any limited time, less than the time* in which the amount *then due upon the said grants*, could, in the judgment of the Comptroller, be calculated, with safety to the State, to be *thereafter* raised and paid; and that, in either case, the lotteries thereafter to be drawn by the said institutions, or their agents or assigns, under or by authority of the act of April 5th, 1822, should be governed or restricted by the terms of said act.

That by the act last above recited, it was required of said institutions, in case they accepted of the terms and provisions of said act, that it should be their duty to raise and pay the amount of the grant made by lottery to the Historical Society, in the same proportions as the grants to the said institutions were to be raised and paid. That the act granting a sum of money to be raised by lottery for the benefit of the Historical Society in the city of New-York, was passed on the 15th day of April 1814, entitled "An act for the payment of certain officers of government, and for other purposes," the amount of which grant was twelve thousand dollars; and that the specification authorising the raising of the said twelve thousand dollars, will be found in the 51st section of said act.

That by an act passed on the 24th day of March 1823, the corporation of the city of New-York were authorised to raise by lottery, under their superintendence and direction, as named in said

act, such money as then remained authorised, by the existing laws of this State, to be raised by lottery, for the purpose of making up the losses which had been sustained in former lotteries; and that the said corporation were empowered by said act to sell and dispose of said lotteries in any manner they might deem proper.

That the aforesaid several grants, to wit, the grants to the several literary institutions, the grant to the Historical Society in the city of New-York, and the grant to the corporation of the city of New-York, comprise all the grants by which money is authorised to be raised by lottery by any law of this State; and that on or before the 21st day of April 1823, all the rights and privileges belonging to the said literary institutions, for the raising of money by lottery—and subsequent to the 21st day of April 1823, all the rights and privileges belonging to the said Historical Society and to the said corporation of the city of New-York, for the raising of money by lottery—were bargained, sold, assigned, transferred and set over to John B. Yates and Archibald M'Intyre, with all the benefits, advantages and emoluments to be derived therefrom.

That subsequent to the passing of the act of April 5th, 1822, by which the literature lotteries were yielded up to the several literary institutions on the terms and conditions mentioned in said act, the then managers of said lotteries issued and drew a scheme of lottery entitled "Literature Lottery No. 7," and completed the drawing of the same *previous* to the time the said institutions or their assignees assumed the control and management of these literature lotteries; and that the drawing of said scheme (No. 7) of the literature lottery was completed on or about the 1st of May 1823; and that on reference to the annual report of the Comptroller to the Legislature, made by him on the 21st day of January 1823, and on reference also to the annual report of the Comptroller dated the 29th day of January 1824, it appears that the said literary institutions received from the treasury of this State the sum of twelve thousand three hundred and seventy-five dollars and thirty-one cents, as being the avails of literature lottery, classes Nos. 6 and 7, both of which classes completed drawing after the passing of the act of April 5th, 1822, entitled "An act to limit the continuance of lotteries," and subsequent also to the filing of the certificate of the Comptroller on the 9th day of April 1822, filed in conformity to said last mentioned act.

That the said Yates and the said M'Intyre, as the assignees of the said grants, and managers of said lotteries, were limited by an amount of sales, and as set forth in the act of April 5th, 1822, entitled "An act to limit the continuance of lotteries," which limitation is in the following words; "and so soon as the whole amount of tickets authorised by this act shall have been sold and drawn, the authority herein granted to said institutions shall cease, though the time fixed by the Comptroller in his certificate may not have expired." And that the lottery granted to the Historical Society in the city of New-York, by an act passed on the 15th day of April 1814, and also the lottery granted to the corporation of the city of New-York, by an act passed on the 24th March 1823, entitled "An act to authorise and provide for the erection of a fever hospital in the city of New-York," were also limited by an amount of sales, and so limited by an amount of sales, agreeably to the terms and conditions contained in the act of April 5th, 1822, entitled "An act to limit the continuance of lotteries."

That the knowledge and the fact of this limitation to these lotteries by an amount of sales, was admitted by John B. Yates, in 1825, to that committee of the Legislature to whom was then referred the subject of lotteries; at which time the said Yates also admitted to the said committee, that he and his partner, Archibald M'Intyre, had contracted with the literary institutions for, and undertaken the entire direction and responsibility of the conducting of the lotteries to be drawn under and by virtue of the grants to the said institutions, and under the limitations and restrictions as aforesaid,

That the fact of the limitation by an amount of sales was also indirectly admitted by Henry Yates, the present partner of the said M'Intyre, in a communication to the Legislature, made by him as clerk to the trustees of Union College, dated "Schenectady, April 6th, 1824," (see Journal of Assembly for 1824, pp. 1083 and 1084,) where it is said—"in the management of so hazardous and complicated a concern, losses are perhaps unavoidable; and if the institutions have not succeeded to the extent of their wishes, they have been thus far less unfortunate than the State has hitherto been, and they still cherish the hope that the drawing of the entire lottery will be completed in a shorter time than was contemplated, either by the institutions or the Legislature."

And your petitioner also sheweth, that in case the firm Yates & M'Intyre would have entitled themselves to continue their lottery operations within this State for the full period of time named in the certificate of the Comptroller, and a proportional time thereafter to complete the lottery granted to the corporation of the city of New-York, by an act passed on the 24th day of March, 1823, and as being the greatest possible period of time that might be taken for the continuance of all these lotteries, they, the said Yates & M'Intyre, should have confined themselves to an amount of sales annually, *not exceeding* the annual average amount of schemes drawn within this State, during the five years immediately preceding the first day of January, 1822; which annual average amount of schemes, was neither more nor less than the sum of three hundred and eighty-nine thousand, eight hundred dollars: and that inasmuch as their sales annually, from the first of May, 1823, up to the present time, have greatly exceeded the aforesaid *annual average amount*, the lotteries conducted and drawn by Yates & M'Intyre on and after the 20th of May, 1823, come under the limitation to all these lotteries, *by an amount of sales*.

And your petitioner further sheweth, that on presenting this case to the grand jury in November 1831, he, your petitioner, stated that the sum of (\$467,256.81) four hundred and sixty-seven thousand, two hundred and fifty-six dollars, and eighty-one cents, was, as he believed, the greatest possible amount the firm Yates & M'Intyre, could claim the right to raise under or by virtue of the aforesaid several grants: that said last mentioned sum was also, as your petitioner believed, the greatest possible sum remaining to be raised on and after the 20th day of May, 1823, and under or by virtue of the aforesaid grants; and that the greatest amount of sales that might be made for the raising of said sum of \$467,256.81, and agreeably to the limitations and restrictions contained in the act of April 5th, 1822, entitled "An act to limit the continuance of lotteries," was (\$6,217,104) six million, two hundred and seventeen thousand, one hundred and four dollars.

And your petitioner further sheweth, that the 15 per cent on this amount of sales, which is the deduction invariably made from the prizes drawn in these lotteries, is equal to the sum of \$932,565.60; and which last mentioned sum is in fact \$465,308.79 more in amount, than the amount authorised and remaining to be raised by lottery in any event, under all the aforesaid grants on

and after the 20th day of May, 1823. That this *excess amount* by the 15 per cent on the amount of sales herein before mentioned, arises from a liberal construction given to the act of April 5th, 1822, which is, that the said institutions or their assignees, *might make actual sales of tickets annually*, for the period of time, fixed by the Comptroller in his certificate, as the *greatest* time that should be taken for the completion of the lotteries granted on the 13th April, 1814; and that sales might also be made annually thereafter for a proportional period of time for the completion of the grants to the Historical Society, and to the corporation of the city of New-York, to an amount equal to the annual average amount of *all the schemes drawn* within this State during the five years immediately preceding the 1st January, 1822. That in the belief of your petitioner, it was the intention of the Legislature of 1822, to *limit the annual amount of sales* in the lotteries thereafter to be drawn, to an amount not exceeding the *annual average amount* of the schemes, not merely drawn within, but also *originally authorised* by the Legislature of this State, if not also to limit the sales annually in the lotteries *thereafter* to be drawn, to an amount not exceeding the annual amount of *sales* made in the schemes of the New-York State lotteries only, and drawn within the five years immediately preceding the 1st of January, 1822.

That by the peculiar phraseology of the 5th section of the aforesaid act of April 5th, 1822, wherein we find the words "schemes drawn within this State during the five years" herein aforesaid, and by a liberal interpretation of the same, the scheme of the Milford and Owego Road lottery, (granted originally by the State of New-Jersey, and drawn within this State during the five years,) is also included, and which adds so largely to the sum of schemes to be averaged, that it gives to the managers, the said Yates & M'Intyre, by the 15 per cent on the *additional* amount of sales caused thereby, in the literature lotteries alone, an advantage equal to the sum of \$89,100, and a proportional advantage to the said managers upon the Historical Society and the Fever Hospital grants, but which advantage, your petitioner sheweth unto your honorable body, was neither intended nor foreseen by the Legislature of 1822, or by the Legislature of 1823.

And your petitioner further sheweth, that by the act of April 5th, 1822, the said institutions, or their assignees, were required to *make* returns to the Comptroller, of the amount of schemes drawn

in virtue of said act, the time when drawn, the number of tickets contained therein, the scheme price of those tickets, the number sold, and the amount of the same; that the assignees of said institutions, have made no such returns, to show the amount of their sales in any scheme or schemes drawn by them within this State since the 30th day of August, 1826, and that the said Yates & M'Intyre have refused to make such returns to the Comptroller of this State, though requested by that officer so to do, either for the schemes drawn under the grants to the said literary institutions, the grant to the said Historical Society, or the grant made to the corporation of the city of New-York; alledging that they were excused from making such returns, by an act entitled "An act to enable the mayor, aldermen and commonalty of the city of Albany to dispose of tickets in a lottery heretofore granted, and to limit the continuance of the same," passed April 13th, 1826.

That by the returns which the said institutions *did* make, and which are on file in the office of the Secretary of this State, it appears that in the first twenty schemes of lottery issued and drawn within this State, from the 20th day of May, 1823, to the 30th of August, 1826, both dates inclusive; which said twenty schemes together contained a capital equal to the sum of \$3,355,140, the firm Yates & M'Intyre sold 538,043 $\frac{1}{2}$  tickets therein; which, at scheme price, amount to the sum of \$3,124,488.50. That the firm Yates & M'Intyre issued and drew, from the 30th day of August, 1826, to the 16th day of November, 1831, inclusive, 172 schemes or classes of lottery, the capital or amount of which was \$25,092,870; and that from the 16th of November, 1831, to the 18th day of April, 1832, inclusive, they issued and drew 22 schemes or classes of lottery, the amount of which was \$3,501,730; and that the grand total of the 194 schemes or classes of lottery, issued and drawn within this State by the firm Yates & M'Intyre, without returns, since August 1826, to the 18th April, 1832, inclusive, as aforesaid, is at scheme price \$28,594,600. That out of this sum of \$28,594,600, the firm Yates & M'Intyre could not legally sell or make sales to an amount exceeding \$3,092,615.50, even supposing there had remained to be raised by lottery the sum of \$467,256.81, *on and after the 20th of May, 1823.*

And your petitioner further sheweth, that since November, 1831, he has ascertained from public records and documents, that the entire amount of money authorised to be raised by any law of this



State, on and after the 20th day of May, 1823, is something less than four hundred thousand dollars; and that the amount of sales permitted for the raising of said last mentioned sum, and agreeably to the terms of the act entitled "An act to limit the continuance of lotteries," cannot in any event exceed the sum of \$5,300,000, nor even amount to said sum of \$5,300,000; whereas in the estimates made and submitted to the grand jury, showing that the amount of sales under all the aforesaid grants, and agreeably to the terms and restrictions contained in the act last aforesaid, could not exceed the sum of (6,217,104,) six million, two hundred and seventeen thousand one hundred and four dollars: your petitioner was assuming the fact, that there remained to be raised by lottery, under the aforesaid several grants, the sum of (\$467,256.81) four hundred and sixty-seven thousand two hundred and fifty-six dollars and eighty-one cents, on and after the 20th day of May, 1823.

And your petitioner further sheweth, that he is not in principle opposed to lotteries, where the same be duly authorised, provided they be granted under proper regulations and restrictions, and shall be managed with due integrity; but that inasmuch as the firm Yates & M'Intyre had, as your petitioner believes and charges, fully enjoyed all their legal and equitable rights, and consequently all "vested rights," sometime in and during the year 1830, your petitioner craves leave to place these facts before your honorable body, that your honorable body may in its wisdom adopt such measures as shall be deemed equitable and just, to protect the rights and dignity of the people of this State.

And your petitioner further sheweth, that the firm Yates & M'Intyre had, in the month of April, 1829, when they offered a certain stipulation, subsequently accepted by the honorable the Senate and the honorable the Assembly for that year, more than enjoyed all the rights and privileges belonging to them by law, for the drawing of the literature lotteries, although said firm in that stipulation alleged, that they were justly entitled to a further period of time of six or seven years, for the completion of the literature lotteries only; and your petitioner further sheweth, that notwithstanding said firm had fully enjoyed all their legal and equitable rights, and consequently also all "vested rights," for the drawing of *all the aforesaid lotteries, by the amount of their sales*, sometime in the year 1830; that the said Yates & M'Intyre have con-

tinued to issue and draw within this State, sundry schemes of lotteries, and to make sales of tickets therein within this State; and that said sundry schemes—being all the schemes drawn during the year 1831, and all those drawn the present year, as well as a portion of those drawn also within this State during the year 1830, were not authorised by any law of this State: and your petitioner also sheweth, that the 15 per cent upon the sales already made by said firm, in the schemes so issued and drawn, in violation of the laws of this State, will amount to half a million, if not to more than a million of dollars; that said firm still continue to issue and draw schemes of lottery, and to sell tickets therein, and that such issuing, and drawing, and selling of tickets, is not, as your petitioner also sheweth, authorised by any law of this State.

And your petitioner further sheweth, that the act entitled “ An act to authorise the mayor, aldermen and commonalty of the city of Albany to dispose of tickets in a lottery heretofore granted, and to limit the continuance of the same,” passed April 13, 1826, does not either extend the time of drawing, or increase the amount of sales to be made in any one or more of the lotteries then authorised by law for the benefit of the said literary institutions, the said Historical society, or the said corporation of the city of New-York; and that in the belief of your petitioner, the true interpretation of the words contained in the second section of the aforesaid act of 13th April, 1826, “ to sell tickets therein at their discretion during the time contemplated and prescribed for finishing the drawing of the money lotteries, in and by the first enacting clause of the act of April 5th, 1822, entitled ‘ An act to limit the continuance of lotteries,’ ” is, that the person or persons authorised to form, adopt, and draw schemes of mixed land and money prizes, might proceed, if he or they thought proper so to do, in the drawing of schemes of mixed land and money prizes, and in the making of sales therein to an amount exceeding, in each and every year, for the period of time these lotteries might in that event be legally continued, the annual average amount alluded to in the 5th section of the act entitled “ An act to limit the continuance of lotteries,” passed on the 5th April, 1822: but your petitioner also sheweth, that this optional power of making sales at a more speedy rate, and exceeding said annual average amount, *did not* release the managers of all these lotteries from being *finally limited* in all the said money lotteries, *by an amount of sales*: And your petitioner



also sheweth, that the several institutions interested in the lotteries authorised by the act of 13th of April, 1814, or their assignees, or their duly appointed agents, might sell tickets at their discretion, and that they might make sales of tickets annually to an amount exceeding the "annual average amount" of all the schemes drawn within this State during the five years immediately preceding the first day of January, 1822, is also *implied* by the fifth section of the act entitled "An act to limit the continuance of lotteries;" for it is therein said, "and so soon as the whole amount of tickets authorised by this act shall have been sold and drawn, the authority herein granted to the said institutions shall cease, though the time fixed by the Comptroller in his certificate, may not have expired."

And your petitioner further sheweth, that waiving the fact that the time mentioned in the second section of the said act of April 13th, 1826, for the continuance of the Albany land lotteries, is governed by the entire act, entitled "An act to limit the continuance of lotteries," which construction your petitioner has been advised by counsel, is the only legal one that can be given thereto: and admitting that these schemes of mixed land and money prizes are limited by the first enacting clause alone of the aforesaid act of April 5, 1822, still it is stated in said first enacting clause, and in reference to the institutions interested in the lotteries granted on the 13th April, 1814, that they might take the same into their own hands, and assume the management thereof "for a limited time, in lieu of, and as an equivalent for, the several specific grants to them therein made: *Provided*, they would accept thereof, *for any limited time, LESS than the time*, in which the State could raise and pay the amount due said institutions, at the rate moneys had previously been raised and paid to the same; or, *provided* the said institutions would accept thereof, for any limited time, in which the amount *then* due said institutions could, in the judgment of the Comptroller, be thereafter raised and paid by the State; which period of time, as a *possible term* for the continuance of the lotteries for the benefit of said institutions, was to be fixed by the Comptroller, and a certificate thereof to be filed in the office of the Secretary of this State; which period of time for the duration of these lotteries, was to be computed by the Comptroller from the facts and information in his possession, and which computation was to be founded upon the rate or ratio at which moneys had been previously raised and paid to said institutions, and

also upon the amount of schemes drawn within this State and the amount realized from the same within the five years immediately preceding the first day of January, 1822; and limiting the sales to be made in each year thereafter for that term of time, to such an amount as was the annual average amount of the schemes drawn within this State during the five years last aforesaid.

And your petitioner further sheweth, that he, your petitioner, is supported in the construction as aforesaid, to the words : "*Provided*, they will accept thereof for any time, *less than the time*, in which the State could raise and pay the amount due said institutions," as contained in the first enacting clause of the act, entitled, "An act to limit the continuance of lotteries," by the report made in April, 1832, by the Attorney-General to the Honorable the Assembly, on the subject of lotteries, and by the 40th section of that report, whether taken separately, or in connexion with the 4th, 10th, and 23d sections of said report; for in said 40th section it is stated: "The restriction upon sales was as much a limitation of time, as was that provision which fixed the utmost period for the continuance of the system, with only this difference, that the one might be calculated in advance, while the other depended upon the course of events;" and in the same section, that officer also said: "But it cannot be doubted that the sale of the amount of the tickets authorised by law to be sold, would as effectually close the lottery as would the other limitation," contained in the last recited act.

And your petitioner further sheweth, that by the aforesaid act of the 13th of April, 1826, it was the intention of that Legislature, that the Albany land lotteries, or the schemes of mixed land and money prizes should be completed at all events within the time taken, or that might be taken, agreeably to law, for the completion of the lotteries granted on the 13th of April, 1814, on the 15th of April, 1814, and on the 24th day of March, 1823. And your petitioner also sheweth that the duration of these Albany land lotteries, or these schemes of mixed land and money prizes were so limited, *expressly* by the aforesaid act of April 13th, 1826; and this fact is admitted by the Attorney-General in the 41st section of his report. That the schemes of mixed land and money prizes to be drawn under and by virtue of said last mentioned act, were in fact limited by said act to the time taken, or that might be taken, for the completion of *the literature lotteries*, and agreeably to the

time limited and prescribed in and by the first enacting clause of the aforesaid act of April 5th, 1822; and in the 42d section of this report of the Attorney-General, it is said that such also was the opinion expressed by the Legislature in 1829, by the committee then appointed on the subject of lotteries.

And your petitioner further sheweth, that now waiving any question of the validity or constitutionality of an act passed by the Legislature on the 13th of April, 1826, if thought to be valid or constitutional, and considered as granting any new lotteries, or extending the time of drawing, and especially the increasing the amount of sales in any scheme or schemes drawn, or to be drawn under or by virtue of any grant or grants made prior to the adoption of the present Constitution of this State; and, upon the supposition that the managers are to be governed and restricted by the first enacting clause *alone*, instead of the limitations and restrictions contained in the entire act of April 5th, 1822; then there is this question to be determined by your Honorable body, whether the words, "*provided they will accept thereof, for any limited time, less than the time in which the State can raise and pay said grants, at the rate moneys have hitherto been raised and paid,*" does or does not mean that period of time which should be found sufficient, by more rapid sales in each year than was the annual average amount of schemes drawn as aforesaid, to equal *the entire amount* of sales, authorised to be made for *the completion* of these lotteries.

And your petitioner further sheweth, that by the aforesaid act of April 13th, 1826, the firm Yates & M'Intyre, as the assignees of the mayor, aldermen and commonalty of the city of Albany, and as therein mentioned, were required to enter into a bond to and with the people of this State, to the amount of thirty thousand dollars, with sureties to the satisfaction of the Comptroller, conditioned for the faithful payment of all prize tickets in the schemes of mixed land and money prizes, which bond should have been entered into and filed in the office of the Secretary of this State. That the third section of the act last aforesaid is in words and terms as follows: "And be it further enacted, that the same security shall be given for the payment of prizes, in the aforesaid schemes of mixed prizes, previous to the sale of any of the tickets in the said lottery, as is required for the payment of all prizes in the schemes authorised in and by the act to limit the continuance of lotteries."

And your petitioner further sheweth, that from a letter addressed to him by Archibald Campbell, Esqr., Deputy Secretary of State, dated Albany, August 4th, 1831, he, your petitioner, was advised that "no bond, other than the bond dated January 7th, 1823, had been filed in the office of the Secretary of this State, either by Yates & M'Intyre, or Union College, in relation to lotteries." Consequently your petitioner further sheweth unto your honorable body, that for the payment of prizes in these schemes of mixed land and money prizes, there has never been any security to the public other than the individual responsibility of the managers; and that owing to the changes made in relation to the firm Yates & M'Intyre, and in relation to these lotteries, and the mode of signing tickets therein, since the bond dated January 7th, 1823, was executed and filed in the office of the Secretary of this State, it is very questionable whether there now be any security at all in law, by the last aforesaid bond, other than the individual responsibility of the managers for the payment of prizes in the schemes containing money prizes only; even were the lotteries now drawing by the firm Yates & M'Intyre, authorized lotteries; and that it was misconduct at least, on the part of said firm, to proceed in the drawing of schemes of mixed land and money prizes, without having entered into a bond for the payment of the same, as required by the 3d section of the aforesaid act of April 13th, 1826.

And your petitioner further sheweth, that during the year 1829, the firm Yates & M'Intyre, issued and drew within this State, thirty-three schemes or classes of lottery, together amounting to the sum of \$3,169,804; that during the year 1830, said firm issued and drew within this State, fifty schemes or classes of lottery, the whole amount of which was \$8,381,528; that in the year 1831, said firm issued and drew within this State, fifty-two schemes or classes of lottery, together amounting to the sum of \$10,802,880; that in the year 1832, up to the 18th April, 1832, inclusive only, said firm issued and drew within this State, sixteen schemes or classes of lottery, the whole amount of which was \$2,430,814; that as your petitioner believes, and charges, one-third part of the tickets therein, or the one-third part of the whole amount of these schemes, on an average, were actually sold by the managers thereof; and that they made sales in these schemes, on an average, equal to the one-third part of the tickets in each scheme, or sales equal to the one-third part of each scheme, estimating the tickets sold at

their scheme price, has been admitted by several venders of tickets, to your petitioner.

And your petitioner further sheweth, that there is at all times, a very large amount of prizes outstanding and remaining unpaid in the hands of adventurers, scheme after scheme, and for weeks and months after the same are payable; and to so very large an amount, that the thirty thousand dollar bond, dated 7th January, 1823, if valid and liable for the payment of prizes in the *money schemes alone*, of the lotteries now drawing, or those drawn within the last twelve months, would make but a small provision towards the payment of the prizes therein and now outstanding, in case it were necessary to resort to the bond, or to make provision therewith for the payment of the same.

And your petitioner further sheweth, that notwithstanding the aforesaid act of April 5th 1822 was very explicit as to the party liable for the payment of the prizes in the schemes thereafter to be drawn, under or by authority of the act entitled "An act to limit the continuance of lotteries," a large portion of the community, during the period the literature lotteries were drawn under and by authority of the act last aforesaid, imbibed the impression that the State was responsible for the payment of prizes drawn in those lotteries; and such has been the prevailing opinion in relation to the lotteries *since* drawn, and such also is the prevailing opinion in relation to the lotteries now drawing by the firm of Yates & M'Intyre.

And your petitioner further sheweth unto your honorable body, that the bond of 7th January, 1823, was given to secure the payment of prizes in the lotteries to be drawn under and by virtue of the aforesaid acts of the 13th and also the 15th of April, 1814; and that there has not at any time been any security to the public, other than the individual responsibility of the managers for the payment of prizes in the lotteries drawn by the said Yates & M'Intyre within this State, immediately after they had enjoyed, by an amount of sales, all the rights belonging to them as the assignees of the several institutions interested in the lotteries granted on the 13th and 15th of April, as last aforesaid. And inasmuch as the lotteries now drawing, and all those drawn within this State since said firm had fully enjoyed all their rights and privileges under the Fever Hospital Grant, also by an amount of sales, *are unauthorised by any law of this State*, your petitioner would submit the ques-

tion to your honorable body, whether, in case the said managers should, either from inability or indisposition, refuse to pay the prizes now outstanding, or that may perchance hereafter be outstanding and unpaid in these unauthorised lotteries, and particularly in the schemes of mixed land and money prizes, which said schemes of mixed land and money prizes were approved officially by the Comptroller and Attorney-General,—the State might not in equity be called upon by the holders thereof for the payment of the same, and inasmuch as these lotteries were issued and drawn under color of law, were sanctioned by the Comptroller and Attorney-General of this State,—and the drawing thereof tolerated by the State.

And your petitioner further sheweth unto your honorable body, that John B. Yates and Archibald M'Intyre, in their contract with the trustees of Union College, for the lotteries to be drawn under and by virtue of the act entitled "An act to limit the continuance of lotteries," stipulated in said contract with the said trustees, that they would furnish the public with tickets in any scheme or class of the lotteries to be drawn by them, under or by virtue of the said last mentioned act, at their original or scheme price, for four days after the publication of any such class or scheme: that the said Yates & M'Intyre in the year 1824, being the second year of their management of these lotteries, refused to sell tickets at scheme price for cash and within the first four days after the first publication of a scheme or class of lottery; not only to the public, but out of revenge for some contested rights between your petitioner and them in another state, refused to supply your petitioner with tickets in several schemes or classes of lottery within the first four days after the publication thereof, at scheme price, for cash; and in some instances refused your petitioner on the very day a scheme or class of lottery was first published, although your petitioner offered to pay the cash for the same; and although your petitioner was then engaged in the business of vending tickets in the city of New-York, and had paid the annual license tax required of him by law, to entitle him to the privilege of vending tickets: that in consequence of being so refused tickets by the firm Yates & M'Intyre, your petitioner, in order to continue in the business of vending tickets, was obliged to pay, and did pay, an advance upon the scheme price, for tickets in the New-York State lotteries, purchased at various times and in various places by your petitioner, to supply the demand for the same at his office in said



city of New-York; and that the advance so paid amounted to several thousand dollars.

And your petitioner further sheweth, that feeling himself aggrieved, and entitled to protection and redress at the hands of the State, your petitioner, did for himself petition the Legislature in 1825, and that at the same time, Stephen Burling of the city of New-York, together with several hundred citizens of this State, also petitioned the Legislature to interfere and secure to licensed venders and to the public their just rights; which petitions were thereupon referred to a select committee, and also to the then Attorney-General of this State; that the reports then made upon said petitions showed that justice and equity required an interference by the supreme authority of the State; but that inasmuch as those powers assumed by the managers, and the exercise of them as complained of by the petitioners, had become a "vested right," the State could not interfere constitutionally in behalf of the petitioners.

And your petitioner further sheweth, that in the returns made and on file in the office of the Secretary of this State, showing the number of tickets in the schemes drawn, and the number of tickets sold therein up to the 30th of August, 1826, the managers return tickets as being on hand, unsold, in some of the identical schemes, that on the day, and in the newspaper first announcing the scheme, they advertised that all the tickets therein were already sold; and in which schemes your petitioner made due application for tickets and was refused by the said managers, although your petitioner offered said Yates & M'Intyre the cash for the same.

And your petitioner further sheweth, that during the examination made by the lottery committee, appointed by the honorable the Assembly in 1825, a series of interrogatories were put by the chairman of that committee to John B. Yates, then one of said firm, Yates & M'Intyre, who appended to his reply to said interrogatories the following charges against your petitioner: that your petitioner had been guilty of publishing falsehoods repeatedly; that your petitioner had been guilty of base and dishonorable conduct towards him and his partner; and that your petitioner also was a defaulter to the firm Yates & M'Intyre, which charges of the said John B. Yates, your petitioner believes have had a tendency to injure him in his character, as well as to injure your pe-

tioner also in a pecuniary point of view: and which charges of the said John B. Yates were printed, as your petitioner believes, and thereby became incorporated with the legislative proceedings of that year. And your petitioner firmly and wholly denies, that these charges made by the said John B. Yates are true; and inasmuch as your petitioner, even at this late day, can furnish abundant proof that said charges are wholly untrue, he prays your honorable body to receive the testimony he now can offer, that will disprove the same; and to take such measures as shall to your honorable body seem necessary or proper, to expunge these aspersions from the Journals of the Legislature.

And your petitioner further sheweth, that said firm, not satisfied with the many losses they have caused your petitioner, both in money and reputation, have for some time past most unwarrantably, as well as unjustly, been using for their own advantage and benefit certain rights and privileges belonging to your petitioner and to his creditors, without the consent of your petitioner or his creditors, and without making any compensation therefor—well knowing of the inability of your petitioner to undertake coercive measures against a firm possessing such overwhelming resources for ways and means as is possessed by said firm, from their lottery operations within this State.

And your petitioner further sheweth unto your honorable body, that during the year of our Lord 1831 the firm Yates & M'Intyre issued and drew, within the city and county of New-York, nine classes or schemes of lottery, upon a plan known as the permutation plan; that it was in the power of the managers by this system of lottery, if so inclined, to commit a fraud upon the public, by the particular manner in which tickets might be offered for sale, and be sold therein; and your petitioner fully believes that said fraud has been actually practised by Yates & M'Intyre within this State; that your petitioner, as early as possible after he was informed said permutation plan was to be introduced for the drawing of lotteries within this State, and in the months of May and June, in the year of our Lord 1831, wrote out and published a full explanation of said permutation plan, to the end that the public might become wholly acquainted with the principles of the same. And your petitioner further sheweth, that in the month of April, 1832, he, your petitioner, saw and examined a pamphlet then recently published in Albany by the firm Yates & M'Intyre, wherein they



undertook to justify themselves, for having used said plan for the drawing of lotteries within this State: but your petitioner also sheweth unto your honorable body that, *by this said pamphlet*, he, your petitioner is fully supported in the charges he has made in relation to the subtleties of which said plan was susceptible: and your petitioner prays leave to submit to the consideration of your honorable body, whether, taking the allegations of your petitioner relative to the permutation plan alone, or in connexion with the whole case herein submitted to your honorable body, there should not an examination take place on the part of the State, in relation to the use of said plan by said firm within this State; for, as your petitioner also sheweth unto your honorable body, suspicion is abroad, and that the reputation of your petitioner and the dignity of the State, as connected with this case, is at stake on the one hand, and the character of the managers on the other; and, therefore, your petitioner further sheweth, that either the said managers or the people of this State and your petitioner are justly entitled to an investigation of the case, and a decision thereon by your honorable body, according to the facts and the evidence.

And your petitioner further sheweth unto your honorable body, that when he published the aforesaid explanation of the said permutation plan, to guard the public against the imposition and fraud that might be practised under that system of drawing lotteries; when also your petitioner publicly asserted the fact that Yates & M'Intyre had then long since fully enjoyed all their equitable rights and privileges for the drawing of lotteries within this State; that he, your petitioner, was well aware these assertions might cause your petitioner additional injuries, either directly or indirectly, at the hands of the managers; and that the friends of these managers and the venders of tickets, as well as mortgagors, mortgagees, lessors, lessees, lenders and borrowers of money, together with their friends, might be quick to feel that their present interests were also invaded: and that your petitioner would thereby be in danger of subjecting himself to much ill disposition and misrepresentation at their hands, as well as at the hands of the managers; but your petitioner also sheweth, that entertaining the opinion that honest actions, from honest motives, is the upright and independent course due to himself, and that he being able to expose this system of duplicity and violation of the laws, as a citizen, it is due from him to the general weal that he be fearless in

the cause; therefore he, your petitioner, with a consciousness of the rectitude of his course, and feeling the truth, and knowing the truth of what is herein set forth to your honorable body, he has made this petition, confident, sooner or later, of finding protectors and advocates in the representatives of the people.

And your petitioner further sheweth, that on the 24th day of April, in the year of our Lord one thousand eight hundred and thirty-two, a petition on the subject of lotteries, agreeing nearly in every respect with so much of this petition as just now read, was presented in behalf of your petitioner, to the honorable the Assembly of this State, and which said petition it was the particular wish and request of your petitioner should then be read and printed, and referred to a select committee; that the reading and printing and reference as aforesaid, was then thus particularly requested, because your petitioner believed that to be the best, if not the only sure means of bringing the truth, and the whole truth, as connected with this case, fully and speedily to light; but that notwithstanding the wishes and requests of your petitioner, so clearly made known to the gentleman who offered his petition to the honorable the Assembly, the same was thereupon referred to the judiciary committee, but which said committee did not at all examine into the facts set forth in said petition, and consequently made no report thereon, owing, as was alleged, to the short period of time then to elapse before that session would be terminated; that said petition was, on the 26th day of April last past, referred to the Attorney-General, who was then required, by a resolution of the honorable the Assembly, to report his opinion to the next Legislature, of the constitutionality of the act entitled "An act to enable the mayor, aldermen and commonalty of the city of Albany to dispose of tickets in a lottery heretofore granted, and to limit the continuance of the same," passed April 13th, 1826.

And your petitioner further sheweth, that as well as the report of the Attorney-General of the 6th of April, 1832, concerning lotteries, he your petitioner hath seen and read the report of that officer on the same subject, and in relation also to the act of 13th of April, 1826, made by him to the honorable the Assembly on the 7th of January, 1833; and that neither of said reports shew that the lotteries now drawing, or those drawn within this State in the years 1830, 1831 and 1832, were legally authorised lotteries; but which said reports, as your petitioner also sheweth, when cleared of equi-

vocations, acknowledged that the lotteries now drawing, and also those drawn within this State during the years 1831 and 1832, as well as many if not all of the schemes so drawn during the year 1830, as stated by your petitioner, were in fact *unauthorised* lotteries.

And your petitioner further sheweth, that whether we look to the termination of the Literature and the Historical Society and the Fever Hospital lotteries, under the limitations thereto respectively *by an amount of sales*, or to the limitation thereto *by time*, according to the principles laid down by the Attorney-General himself in the 41st section of his said report of 6th of April, 1832, the same have already terminated; for, as your petitioner also sheweth, the lotteries authorised by the act of 13th of April, 1814, by the act of 15th of April, 1814, and by the act of 24th of March, 1823, fully terminated in the year 1830, if not in the year 1829, under the limitation thereto *by an amount of sales*; and that the Literature and the Albany land lotteries fully ceased and determined, even under the limitation thereto, by the greatest period of time to which they might be continued, so far as either law or equity was concerned, on the fourth day of May in the year of our Lord one thousand eight hundred and thirty-two; All which your petitioner is ready to prove—all which he now offers to prove to your honorable body, the aforesaid reports of the Attorney-General, as generally understood, to the contrary notwithstanding.

And your petitioner further sheweth, that since the 24th day of April, 1832, he your petitioner hath ascertained that the amount of money authorised and remaining to be raised by lottery after the 5th day of April, 1822, under the grant made to certain institutions on the 13th day of April, 1814, together with the amount authorised and then also remaining to be raised under the grant made to the Historical Society on the 15th day of April, 1814, was only (\$318,831) three hundred and eighteen thousand six hundred and thirty-one dollars, instead of \$334,256.81, as admitted on the 21st day of April, in the year of our Lord one thousand eight hundred and thirty-two.

And your petitioner further sheweth, that since the 21st day of April as herein last aforesaid, he your petitioner hath ascertained that the amount of money authorised by law, and remaining to be raised by lottery after the 5th day of April, 1832, under the grants

made to certain literary institutions on the 13th day of April, 1814, was only \$301,591, instead of the sum of \$322,256.81, as stated in the Comptroller's certificate of the 9th of April, 1822; that the amount authorised by law to be raised by lottery, for the benefit of the Historical Society in the city of New-York, including the six years simple interest on the \$12,000 granted to said society by act of 15th of April, 1814, entitled "An act for the payment of certain officers of government, and for other purposes," was \$17,040, and only the sum of \$17,040; and that according to the report of the Attorney-General of the 6th of April, 1832, the amount of the Fever Hospital grant was only \$90,802.00, instead of \$100,000, as had been theretofore supposed by your petitioner; which said grants of the 13th of April, 1814, of the 15th day of April, 1814, and of the 24th of March, 1823, comprise all the money lottery grants within this State; and that the total amount of monies to be raised thereby, after the 5th day of April, 1822, was the sum of \$469,433.00, and the sum of \$409,433.00 only; and that if from said last mentioned sum be deducted the \$12,375.31, which amount the Comptroller says, in his annual reports to the Legislature for the years 1823 and 1824, was paid to the literary institutions subsequent to the 5th of April, 1822, as the avails of the Literature lottery, classes Nos. 6 and 7—and which avails the Attorney-General, in the 18th section of his report of the 6th of April, 1832, says "should go to diminish the privileges granted to the institutions" aforesaid—will leave \$397,057.69, as the total amount to be raised by lottery by the firm Yates & M'Intyre, under the said grants of 13th of April, 1814, of the 15th of April, 1814, and also under the said grant of the 24th of March, 1823, instead of the sum of \$467,256.81, as was admitted by your petitioner to the grand jury in November, 1831, to be the amount authorised and remaining to be raised by lottery on and after the 5th of April, 1822; and that the total amount of money actually authorised by law, and remaining to be raised under the several grants as last aforesaid, is, as your petitioner also sheweth, about \$33,000 less in amount than the firm Yates & M'Intyre have claimed, or have intended to claim the right of raising under the grants herein last severally mentioned.

And your petitioner further sheweth, that in order to make due allowances for fractional sums, and to have the total amount, in round numbers, thus authorised and remaining to be raised by lottery after the firm Yates & M'Intyre assumed the direction and

management thereof, he will suppose that said total amount—and your petitioner now proceeds on the ground that the said total amount of all the money grants as aforesaid, so far as relates to their limitation *by an amount of sales*, instead of being \$397,057.69, was the exact and even sum of (\$400,000) four hundred thousand dollars.

And your petitioner further sheweth, that while the lotteries were conducted by and on behalf of the State, there were four lottery managers appointed by the State, and that the compensation then allowed them, and the sums appropriated to liquidate also all expenses necessary to be incurred in the furnishing of the tickets, the publishing of the schemes and the results of the drawing of the said lotteries, was a commission of 15 per cent upon the amount actually raised by each scheme so drawn by them on behalf of the State; and that the said four managers, having the superintendence and care of the literature lotteries up to the 1st of May, 1823, were by law obliged to deposit all monies, notes and securities received for tickets in bank, for safe keeping, to the credit of the Treasurer of this State; which said managers consequently had no power or control for any period of time over said monies, notes or securities, for any private speculation whatever, or for any purposes whatever, that might at any time further the will and caprice of the said managers, and were *each* under a bond to the people of this State for the faithful discharge of their duties in the penal sum of thirty thousand dollars. That on the other hand, by the act of the 5th of April, 1822, as your honorable body will perceive, the firm Yates & M'Intyre have given but one bond to the people of this State, and that only in the penal sum of (\$30,000) thirty thousand dollars, to secure the payment of all the prizes drawn in the literature lotteries; but backed in the popular opinion, by the credit of the State, they have enjoyed every possible benefit of the most complete monopoly over the granted lotteries, and the advantages arising therefrom have been enjoyed by the firm Yates & M'Intyre far beyond the time limited for the completion of all the lotteries within this State, because of the withholding returns as to the amount of their sales, as required by the aforesaid act of the 5th of April, 1822.

That,—inasmuch as the third section of the aforesaid act of 1826, requires that a bond in the penal sum of thirty thousand dollars should be given to the people of this State, to secure the pay-

ment of prizes in the consolidated lotteries, or schemes of mixed land and money prizes, and since no such bond has been given by the firm Yates & M'Intyre, your petitioner would submit for consideration to your honorable body, whether it was not misconduct on the part of said firm to proceed to sell tickets and to draw schemes of lotteries containing mixed land and money prizes, without having entered into a bond to and with the people of this State, as required by said act of 1826; and whether, also, even supposing the lotteries now drawing were legally authorised lotteries, it has not been both imprudent and impolitic for the Legislature to allow the said firm to continue the drawing of lotteries within this State, without giving the security, trifling as it is, and insufficient perchance as it might be found, required from them by the said act of 13th of April, 1826.

And your petitioner further sheweth, that a compensation or commission of 15 per cent as aforesaid upon the total amount of money authorised and remaining to be raised by lottery, under the Literature, the Historical Society, and the Fever Hospital lotteries, after the 1st day of May, 1823, would not exceed the sum of (\$60,000) sixty thousand dollars; and that from a communication, from John B. Yates, dated 21st February, 1827, to the chairman of the lottery committee appointed by the Assembly in the year last aforesaid, it would appear that he, the said Yates, and his partner, Archibald M'Intyre, had purchased lottery privileges, from certain institutions, for and in consideration of the sum of (\$276,090.14) two hundred and seventy-six thousand ninety dollars and fourteen cents, paid or to be paid said institutions, for the right of assuming the management and control of the same, and of proceeding with the drawing of the Literature lotteries; and that for and in consideration of said last mentioned sum, paid or payable to said institutions, the said Yates & M'Intyre, or their legal representatives, were entitled to all the advantages, emoluments and benefits legally belonging thereto and to be derived therefrom, under or by virtue of the acts originally granting said lotteries, and also under or by virtue of the act of 5th of April, 1822, entitled "An act to limit the continuance of lotteries:" And your petitioner further sheweth, that the consideration thus paid or payable to said institutions for their grants, is about 15 per cent less than the amount which the Comptroller had stated as being due to said institutions on the 9th of April, 1822; or in other words, that the compensation allowed by said institutions to the firm Yates & M'Intyre, for assuming



the management and the drawing of the literature lotteries, out of the sum thus stated by the Comptroller as the amount due upon said grants, was (\$46,166.67) forty-six thousand one hundred and sixty-six dollars and sixty-seven cents; and that the lotteries to be drawn under and by authority of the Historical Society and Fever Hospital grants, were purchased at a still greater discount by the said firm Yates & M'Intyre, and at such an abatement from the amount authorised to be raised under said grants, that the discount or compensation thus allowed to the said managers, instead of being a commission or compensation upon all these lotteries of only sixty thousand dollars, amounts to about the sum of seventy-five thousand dollars.

But your petitioner further sheweth, that he, your petitioner, hath not noticed the compensation as herein last aforesaid to the said managers or contractors with a view of claiming that these two managers, Messrs. Yates & M'Intyre, should have only a *pro-rata* compensation, to that allowed the four managers while the literature lotteries were conducted and drawn on behalf of the State; for, had the said institutions, the said Historical Society, and the said corporation of the city of New-York bargained, sold, assigned, transferred and set over, unto the said Yates & M'Intyre and to their legal representatives, the one-half, or a still greater portion, of the entire amount of the said several grants as a compensation to them for assuming the management and direction of said lotteries, as well as the risks appertaining thereto; an arrangement of that kind was legal, and consequently no just complaint could arise thereon. But your petitioner hath presented this matter of compensation and commission to the attention of your honorable body, with a view of showing your honorable body, since much has recently been said on the subject of losses, both by the managers and the Attorney-General, notwithstanding the act of 1822 expressly declares, that the said institutions or their agents shall themselves "receive the avails, hazard the losses, and be responsible for the payment of prizes" in said lotteries, and notwithstanding that the managers have again and again acknowledged that they themselves were to take to their own account all risks and responsibilities in the management and drawing thereof—*what is the amount* of compensation or commission which the firm Yates & M'Intyre secured to themselves *by contract*, out of the monies authorised and remaining to be raised by lottery, under the act of 13th April, 1814, the act of 15th of April, 1814, and also under the

act of 24th March, 1823; and what particularly also goes into their hands, *additionally*, as a compensation, from the liberal interpretation given to the acts passed in the years 1822 and 1823, as herein aforesaid, for assuming the management and direction of said lotteries, and as an indemnity also for any loss or losses they may have sustained in the conducting and drawing of the same.

And your petitioner further sheweth, that for the raising the sum of four hundred thousand dollars, according to the limitations and restrictions as contained in the aforesaid act of 5th April, 1822, and agreeably to the interpretation given thereto by your petitioner, tickets might be sold to the amount of (\$5,204,944.69) five million, two hundred and four-thousand, nine hundred and forty-four dollars and sixty-nine cents; and that the 15 per cent thereon, would be equal to the sum of (\$780,741.70) seven hundred and eighty thousand, seven hundred and forty-one dollars and seventy cents; which amount, your honorable body will perceive, *exceeds* the amount of all the money lottery grants, and to be raised after the 1st day of May, 1823, by an amount equal, at least, to the sum of (\$380,741.70) three hundred and eighty thousand, seven hundred and forty-one dollars and seventy cents.

And your petitioner further sheweth, that for the raising of the sum of (\$400,000) four hundred thousand dollars by lottery, according to the limitations and restrictions of the aforesaid act of 5th of April, 1822, and the interpretation given thereto by the Attorney-General, in his report of 7th of January, 1833, tickets might be sold to the amount of (\$4,483,890.28) four million, four hundred and eighty-three thousand, eight hundred and ninety dollars and twenty-eight cents, and to the amount of \$4,483,890.28 only; and that the 15 per cent thereon, would be equal to the sum of (\$672,583.54) six hundred and seventy-two thousand, five hundred and eighty-three dollars and fifty-four cents; which said last mentioned sum *exceeds* the total amount of money authorised and remaining to be raised by lottery after the 1st of May, 1823, by an amount equal at least to the sum of (\$272,583.54) two hundred and seventy-two thousand, five hundred and eighty-three dollars and fifty-four cents; which last mentioned sum, also goes into the hands of said managers, as a compensation to them, for purchasing, managing and drawing said lotteries.



And your petitioner further sheweth, that in case an allowance, as now improperly claimed, should be made to the said managers for losses, if lottery losses, and that allowance be *pro rata* to the losses sustained in the lotteries of this State, drawn during the five years immediately preceding the 1st of January, 1822, that the above named advantage in favor of the managers, in the one case, to the amount of (\$380,741.70) three hundred and eighty thousand, seven hundred and forty-one dollars and seventy cents, and in the other, to the amount of (\$272,583.54) two hundred and seventy-two thousand, five hundred and eighty-three dollars and fifty-four cents, would more than equal a *pro rata* allowance for losses as aforesaid, *provided* the managers were entitled either in law or equity, to a *pro rata* allowance as herein last aforesaid.

And your petitioner further sheweth, that if from the aforesaid sum of (\$4,483,890.28) four million, four hundred and eighty-three thousand, eight hundred and ninety dollars and twenty-eight cents, the greatest amount of sales to be made agreeably to law, for the raising the sum of (\$400,000) four hundred thousand dollars by lottery, be deducted the sum of (\$3,124,488.50) three million, one hundred and twenty-four thousand, four hundred and eighty-eight dollars and fifty cents, which said last mentioned sum your petitioner hath already shown to have been the amount of sales made by the firm Yates & M'Intyre, up to the 30th of August, 1826, will leave, as a difference or balance, the sum of (1,359,401.78) one million, three hundred and fifty-nine thousand, four hundred and one dollars and seventy-eight cents; and which said sum of \$1,359,401.78, and that sum only, was, as your petitioner also sheweth, the total amount of sales authorised by law to be made, subsequent to the 30th of August, 1826, for the completion of the Literature, the Historical Society, and the Fever Hospital lotteries.

And your petitioner further sheweth, that if to the said sum of \$1,359,401.78, be added sales to the amount of (\$250,000) two hundred and fifty thousand dollars, the said last mentioned sum, being the amount of tickets authorised and expressly limited both by the act of 14th of April, 1820, and also by the act of 13th of April, 1826, to be sold for the disposition of certain Albany lands by lottery, the total amount thereof being the sum of (\$1,509,401.78) one million, five hundred and nine thousand, four hundred and one dollars and seventy-eight cents, is the total amount of sales authorised by law to be made, subsequent to the 30th of Au-

gust, 1826, for the completion of all lotteries whatsoever within this State. And your petitioner repeats the fact, that the 15 per cent upon this amount of sales of (\$4,483,890.28) four million, four hundred and eighty-three thousand, eight hundred and ninety dollars and twenty-eight cents, gives the managers, *in addition* to the (\$75,000) seventy-five thousand dollars discount which they secured to themselves by contract out of the (\$400,000) four hundred thousand dollars, and as herein aforesaid—a commission or compensation to the amount of (\$272,583.54) two hundred and seventy-two thousand, five hundred and eighty-three dollars and fifty-four cents, which your petitioner believes was not intended to be allowed them, either by the Legislature of 1822, or by the Legislature of 1823.

And your petitioner further sheweth, that from and after the 21st of April, 1832, to the 1st day of February, 1833, the firm Yates & M'Intyre issued and drew within this State, forty-one schemes of lottery, the amount of which was (\$8,097,511) eight million, ninety-seven thousand, five hundred and eleven dollars, and that the said firm have issued and drawn within this State, from the 1st of May, 1823, to the 1st day of February, 1833, two hundred and fifty-five schemes of lottery, and that the amount of said 255 schemes exceeds (\$40,000,000) forty million of dollars, and that the firm Yates & M'Intyre have made sales of tickets therein, to the amount of eighteen to twenty million of dollars; and that all sales made by said firm in said lotteries, beyond the sum of (\$4,483,890.28 + \$250,000 = \$4,733,890.28) four million, seven hundred and thirty-three thousand, eight hundred and ninety dollars and twenty-eight cents, were unauthorised by any law of this State; and that consequently the 15 per cent upon the sales already made by said firm within this State in *unauthorised lotteries*, will amount to one million and an half, if not to more than two million of dollars.

And your petitioner further sheweth, that since the 1st day of February last past, the firm Yates & M'Intyre have issued and drawn, or issued with a view of drawing the same, within this State, after the date last aforesaid, and on or before the 1st day of June next ensuing the date hereof, seventeen schemes or classes of lottery, containing, or purporting to contain, more than twice the number of tickets, and which also contain, or purport to contain, more than twice the amount of money or prizes, than were contain-

ed in all the schemes drawn within this State, during the five years immediately preceding the 1st of January, 1822.

And your petitioner further sheweth, that the firm Yates & M'Intyre themselves have acknowledged that all their rights and privileges for the drawing of lotteries within this State would have terminated, and fully terminated a long time ago, but for the act, entitled "An act to enable the mayor, aldermen and commonalty of the city of Albany to dispose of tickets, heretofore granted, and to limit the continuance of the same," passed 13th April, 1826, to which said act the particular attention of your honorable body is specially solicited by your petitioner, who further sheweth, that by the first section of the said last mentioned act it was made lawful for the mayor, aldermen and commonalty of the city of Albany to contract with any person or persons that they might deem proper, for drawing the lotteries authorised in and by the act, entitled "An act to enable the mayor, aldermen and commonalty of the city of Albany to dispose of their public lands by lottery;" and that the person or persons with whom they should so contract should have a right to form such schemes for the said lottery, and to mix the prizes for the same *with the money prizes in the lottery* authorised to be drawn under and by virtue of the act, entitled "An act to limit the continuance of lotteries," passed the 5th day of April, 1822, *and in the lottery* authorised to be drawn under and by virtue of the act, entitled "An act to provide for the erection of a Fever Hospital in the city of New-York," passed the twenty-fourth day of March, 1823; *Provided nevertheless*, that the consent of the literary institutions interested in the lottery to be drawn under the act to limit the continuance of lotteries, or the person or persons charged with the supervision and care of the same, and also the consent of the assignees of said grant for the erection of a Fever Hospital in the city of New-York, be previously obtained; *and provided also*, that the land prizes so mixed, and the tickets sold therefor, should not, in the whole, exceed the sum of *two hundred and fifty thousand dollars*. And your petitioner further sheweth, that previous to the 13th day of April, 1826, the firm Yates & M'Intyre, as the assignees of the grants made to said institutions, and the said Historical Society, or as the duly authorised agents for the same, had proposed to the corporation of Albany to take their lands, and to dispose of the same by lottery, agreeably to the provisions of this said act of 13th April, 1826, provided the same should be enacted by the Legislature of this State.

And your petitioner further sheweth, that the second section of said act of 13th of April, 1826, declares, "that in case the said literary institutions, or their authorised agent or agents aforesaid, should consent to the mixing of said lotteries and prizes as aforesaid, so that all the existing grants for lotteries might be closed within the time then limited by law for closing the drawing of said lotteries, in which they were then respectively interested; that it should and might be lawful for each of them to change the schemes of said lotteries in which they were then respectively interested, in such manner as to admit of the mixing of said land and money prizes, as aforesaid, and that in lieu of the tickets in the schemes which they were theretofore authorised to dispose of, it should be lawful for them to dispose of tickets, at their discretion, in the schemes of mixed prizes authorised by said act of 13th April, 1826, during the time contemplated and prescribed for the finishing the drawing of the then existing lotteries, in and by the first enacting clause of the act entitled "An act to limit the continuance of lotteries," passed the 5th day of April, 1822. Your petitioner therefore again sheweth, that the schemes authorised by this said act of 13th of April, 1826, in which tickets might be sold throughout a certain period of time, "at the discretion" of the said agents and assignees, which discretionary power is now claimed by the managers as authorising sales of tickets to an unlimited amount, were in fact such schemes only as should be formed by a consolidation of the schemes then remaining to be drawn under and by authority of the act of 13th of April, 1814, the act of 15th of April, 1814, subject nevertheless to the limitations and restrictions contained in the aforesaid act of 5th of April, 1822, and also the schemes of lottery to be drawn under the aforesaid act of 24th of March, 1823—with the Albany land lottery, granted originally by an act entitled "An act to authorise the mayor, aldermen and commonalty of the city of New-York to dispose of their public lands by lottery," passed April 14th, 1820; that the amount to be raised under and by virtue of said last mentioned act, was not to exceed the sum of two hundred and fifty thousand dollars—an amount or limitation specially recited in this said act of 13th of April, 1826, wherein it is said, as your petitioner again sheweth, "that the land prizes so mixed, and the tickets sold therefor, should not exceed the sum of two hundred and fifty thousand dollars."

And your petitioner further sheweth, that inasmuch as the mere consolidation of the several schemes, and the mixing of the land

and money prizes, as authorised and restricted by said act of 13th of April, 1826, could not by any possible mode of reasoning be shown as necessarily increasing the aggregate amount of sales by which the Literature, the Historical Society and the Fever Hospital lotteries were limited by the aforesaid act of 5th of April, 1822, and 24th March, 1823, and that also of the Albany land lottery, as herein aforesaid:—

That inasmuch as there is neither phrase nor word contained in said act of 13th of April, 1826, stating that all the said lotteries, drawn separately, or though consolidated, and drawn as schemes of mixed land and money prizes, as authorised by said last mentioned act, were not still subject to the limitations, by an amount of sales; that inasmuch as there is nothing stated in said act, showing that it was not still possible for said lotteries, though consolidated, to be terminated under the limitation last aforesaid, *sooner* than at the full expiration of that longest period of time to which they might have been continued agreeably to law, provided the said institutions, or their duly authorised agents, had not in any one year after the 5th day of April, 1822, made sales to an amount exceeding the annual average amount of the schemes drawn within this State during the five years immediately preceding the 1st of January, 1822, to the close of which said period of time, they might also have been legally continued—provided sales were not made after the 30th of August, 1826, and up to the close of that full period, or longest possible term of time for the duration of said lotteries, as limited by act of 5th of April, 1822, and 24th of March, 1823, to an amount exceeding the sum of (\$1,509,401.78) one million five hundred and nine thousand four hundred and one dollars and seventy-eight cents; which said last mentioned sum was, as your petitioner again sheweth, the total amount of sales authorised to be made subsequent to the 30th day of August, 1826, for the completion of all the aforesaid lotteries:—

That inasmuch, also, as there is neither phrase nor word, contained in said act of 1826, stating that the said agents or assignees, or any person or persons, or body or bodies corporate, whatsoever, might sell tickets at his or their discretion, in any scheme or schemes of lottery or lotteries, other than in the schemes "*therein* authorised;" and the schemes of mixed land and money prizes "*therein authorised*" being schemes formed by a consolidation of the lotteries then already authorised by law, and expressly limited

by an amount of sales, "which restriction upon sales was as much a limitation of time," says the Attorney-General, in his report of the 6th of April, 1822, and as already shown to your honorable body by your petitioner, "as was that provision which fixed the utmost period for the continuance of the system, with only this difference, that the one might be calculated in advance, while the other depended upon the course of events:"—

That inasmuch as the Attorney-General in his report of the 7th of January, 1833, says that "that provision of the Constitution in relation to lotteries," which is in the following words, "No lottery shall hereafter be authorised in this State; and the Legislature shall pass laws to prevent the sale of all lottery tickets within this State, except in lotteries already provided for by law;" (which prohibitory clause took effect on the 1st of March, 1822,)—"neither annuled existing grants, nor inhibited legislation concerning them," neither did it "consequently follow that all laws professing to regulate those lotteries would be valid:" for, says the Attorney-General, "a law which under the form of providing for an old grant, should, in fact, amount to a new one, would be wholly indefensible;" and who for example says—"If a lottery had been granted for the term of five years, a valid act could not be passed to authorise its continuance for ten years; or, if the continuance of a lottery had been limited by the amount of money which might be raised, or the nominal amount of tickets which might be sold, an unqualified repeal of those limitations would be unauthorised;" that "such laws, although they would not be so in form, would, within the spirit and intent of the Constitution, be acts authorising new lotteries, and consequently void:"—

That inasmuch as the Attorney-General, subsequently, also says in the same report, that, "as all of the laws on this subject, passed since the adoption of the Constitution, purport to regulate previously existing lotteries, without professing to make new grants, they are not subject to any constitutional objections, *unless* upon a careful review of their provisions, it shall plainly appear, that they have in fact, authorised an extension of the system." *Your petitioner* would submit for consideration, to your honorable body, particularly in case the Attorney-General be correct in his opinions as herein last recited, and who in both of his said reports, alleges as a fact, that the aforesaid act of 1826 did remove the restrictions upon sales, imposed by the act of 5th of April 1822,—



and in the event also that sales should consequently be made, exceeding the amount previously limited for the completion of all these lotteries,—*whether* such a result would not only be a violation of the laws, but totally at variance with the doctrines advanced by the Attorney-General in his recent report, and especially at variance with the doctrines advanced by the law officer of the State, and herein recited by your petitioner,—and whether such repeal, admitting that the restrictions upon sales, as reported by the law officer of the State, were removed by the aforesaid act of 1826, would not, agreeably to the principle laid down by that officer himself, “*be an unqualified repeal*,”—whether such repeal would not authorise, indirectly at least, “an extension of the system,”—and consequently be “subject to a constitutional objection”?—a repeal that, according to the very language used by the Attorney-General himself, “would be unauthorised,” and “consequently indefensible.” But your petitioner further sheweth, that he your petitioner denies that said restrictions were removed by the act of the 13th of April, 1826;—that he your petitioner also denies that said act does authorise sales to be made to an unlimited amount, as asserted by the Attorney-General in his reports of 6th of April, 1832, and of 7th of January, 1833; and for the truth of these denials your petitioner would respectfully refer your honorable body to the said act of 1826, entire; and upon reference thereto, it is believed your honorable body will be fully satisfied that the denials herein just made by your petitioner are strictly true.

And your petitioner further sheweth, that he your petitioner would also submit for consideration, to your honorable body, whether, under existing circumstances, an arrangement or compact, as recently recommended to the honorable the Assembly, can be made for the continuance of lotteries within this State, until the 31st of December next, or for a single day hereafter without violating the Constitution of this State,—*provided* that part of the Attorney-General’s report be true, where he says, that “that which the Legislature is prohibited from granting by one act, cannot be yielded by any course of legislation.”

And your petitioner further sheweth, that as well as allege that the aforesaid act of 1826 removed the restrictions upon sales, imposed by the act of 5th of April, 1822, and 24th of March, 1823, the Attorney-General says in his reports as aforesaid, that by the said act of 1826, the literature and Albany land lotteries might be

continued until the 21st day of April, 1834—because it is stated, substantially, in the second section of said last mentioned act, that “in lieu of the tickets which the said institutions, or their duly authorised agent or agents, and the assignees of the grants to the city of New-York, were authorised to dispose of, for the completion of the lotteries to be drawn under the grants made to the said institutions, and to the corporation of the city of New-York, respectively, and as aforesaid—yet that upon these schemes being consolidated with the scheme of the Albany land lottery, (by which consolidation were to be formed schemes of mixed land and money prizes,) “it should and might be lawful for the said literary institutions, or their authorised agent or agents, and the assignees of the grant to the city of New-York to sell tickets at their discretion, in the schemes of mixed prizes *therein authorised*,” (that is, in schemes of mixed land and money prizes,) “during the time contemplated and prescribed for finishing the drawing of certain lotteries, in and by the first enacting clause of the act entitled ‘An act to limit the continuance of lotteries,’ passed the 5th of April, 1822”—as the said time is calculated and estimated by the Comptroller, in his “certificate made under and by virtue of said enacting clause, and on file in the office of the Secretary of this State;” that still, as your petitioner also sheweth, “it was neither granted nor promised in said act of 1826, to the said agents or assignees, that the said lotteries or schemes of mixed land and money prizes might be continued until the full end of that period of time, stated by the Comptroller in his certificate as the greatest possible term for the continuance of these literature lotteries, nor for a single day beyond the time when the said agents and the said assignees had made sales in the aforesaid lotteries after the 13th of April, 1826, or, in these *consolidated lotteries*, to the amount of (\$2,030,383.28,) two million thirty thousand three hundred and eighty-three dollars and twenty-eight cents; which sum of \$2,030,383.28, was, as your petitioner also sheweth, the total amount of sales authorised and remaining to be made, subsequent to the 5th day of April, 1826, for the completion of all the aforesaid lotteries.

That the Attorney-General alleges that these literature and Albany land lotteries may be continued until the 21st of April, 1834, because also, he has assumed, as he himself says in the 12th and 18th sections of his report, of April, 1832, that the said period of eleven years, commenced running on the 21st of April, 1823, at which



time said institutions filed their assent to the aforesaid act of 5th of April, 1822, and who says in the said 18th section of said report that, "it is believed, that in taking eleven years as the limit of the literature lotteries, and commencing when the institutions filed their assent in April, 1823, no injustice can be done to them or to the managers who stand in their place." But, your petitioner also sheweth, that, although it may not be "injustice to either the said institutions or the said managers," to date this period of eleven years from the 21st day of April, 1823, yet the dating of said period of eleven years from the 21st day of April, 1823, instead of dating it from the 5th or 9th of April, 1822, is, to say the least, gross injustice to the State, for the reason that we are told by the first enacting clause of said act of 5th of April, 1822, in relation to the longest period of time which the lotteries granted to said institutions might be continued to raise the amount then due them upon their grants; that, that longest period, was such a period of time as would, in the judgment of the Comptroller, be necessary *thereafter* to raise and pay the amount then due to said institutions, upon their grants, "at the rate moneys had hitherto been raised and paid" upon the same; for the reason, as your petitioner also sheweth, that it was *expressly provided*, in said first enacting clause, that the said institutions should accept of a "*less time*," for the raising the amount then due upon their grants, than the time in which the State could raise and pay the same, at the rate moneys had then hitherto been raised and paid, or could, in the judgment of the Comptroller, be calculated with safety to the State, to be *thereafter* raised and paid," for the reason also, as your petitioner again sheweth, that subsequent to the filing of the said certificate, the said institutions drew from the treasury of this State the sum of (\$12,375.31,) twelve thousand three hundred and seventy-five dollars and thirty-one cents, as the avails of the literature lottery classes No. 6 and No. 7, the proceeds of which in fact went into the State treasury, after the 9th day of April, 1822, which avails or "fruit," as says the Attorney-General in said 18th section, "should go to diminish the privileges granted to said institutions." That consequently, as your petitioner also sheweth, the *assumption* of the Attorney-General, that the "eleven years," as aforesaid *commenced* running on the 21st of April, 1822, is not warranted by any law of this State, nor by any principle of equity; that agreeably to the Attorney-General's own showing, the said agents or assignees, had they restricted themselves to the annual average

amount of sales of (\$335,800,) three hundred and thirty-five thousand eight hundred dollars only, were not entitled to the full period of "eleven years," by a period of nearly five months, inasmuch as the said institutions received from the treasury the sum of twelve thousand three hundred and-seventy-five dollars and thirty-one cents on account of their grants, subsequent to the filing of the said certificate.

And your petitioner further sheweth, that even admitting that these lotteries of mixed land and money prizes might have been continued for eleven years from the time of filing said certificate; that adding the eleven years from the 9th day of April, 1822, would, agreeably to the simplest of all rules of computation, only extend to the 9th day of April, 1833, and which period of "eleven years" hath now fully expired; that by abating therefrom a proportional period of time, say nearly five months, for the (\$12,375.31,) twelve thousand three hundred and seventy-five dollars and thirty-one cents, drawn from the treasury by the institutions as aforesaid, will clearly show that the literature and Albany land lotteries, without any reference to their limitation by an amount of sales, terminated, fully terminated in November, 1832.

And your petitioner further sheweth, that, did the said act of 5th of April, 1822, or any thing contained in the Comptroller's certificate, admit of any claim in equity on the part of the managers, that the greatest period of time to which the lotteries might be continued for the raising the amount due to said institutions, "at the rate moneys were raised and paid" during the five years immediately preceding the 1st of January, 1822, should date from the time the said institutions filed their assent to the act entitled "An act to limit the continuance of lotteries," instead of dating, as it must be dated at all events, from the 5th or 9th of April, 1822, and waiving wholly the limitation to these lotteries *by an amount of sales*—the greatest possible period of time to which they might have been continued, even in that case, hath already expired; for, as your petitioner also sheweth, the total amount authorised and remaining to be raised upon the grants to said institutions, *after* the first of May, 1823, was (\$289,215.69) two hundred and eighty-nine thousand two hundred and fifteen dollars and sixty-nine cents, and \$289,215.69 only; that, had the said institutions, or the said agents or managers, restricted their sales in each year to the sum of (\$335,800) three hundred and thirty-five thousand eight hundred

dollars, the greatest period of time to be taken for the raising the said sum of (289,215.69) two hundred and eighty-nine thousand two hundred and fifteen dollars and sixty-nine cents, agreeably to the terms of the act of 1822, or supposing it to be raised "at the rate moneys had been raised and paid" during the five years immediately preceding the 1st of January, 1822, was nine years two hundred and thirty-nine days, which, added from the 21st April, 1823, would only extend to the 20th day of December, 1832.

And your petitioner further sheweth, that inasmuch as the amount due the said institutions, and remaining to be raised upon their grants, on and after the 9th day of April, 1822, was only (\$301,591) three hundred and one thousand five hundred and ninety-one dollars, it would appear that the said sum of \$301,591 might, *agreeably to the ratio contained in said certificate*, have been raised *thereafter* in ten years and one hundred and eight days, which, added from the 5th of April, 1822, would extend the literature lotteries only to the 22d day of July, 1832: And your petitioner again sheweth, that waving the fact entirely of the limitation to the literature lotteries by an amount of sales, the greatest period of time they could be continued *after* the passing of the act of 5th of April, 1822, entitled "An act to limit the continuance of lotteries," and agreeably to the true intent and meaning of said act—agreeably also to the facts and information then in possession of the Comptroller—was a period of ten years and twenty-five days, which, added from the 9th instead of the 5th of April, 1822, extended only to the 4th day of May, 1832; when terminated, and fully terminated, the literature lotteries, under the limitation usually known by the term, *limitation by time*.

But your petitioner also sheweth, that he your petitioner by no means yields the fact that all the aforesaid lotteries terminated, fully terminated, so far as law was concerned, two or three years ago, under the limitation thereto *by an amount of sales*. And your petitioner prays that your honorable body will call for returns, as to the amount of sales made in all the schemes drawn within this State by the firm Yates & M'Intyre, since the 30th of August, 1826; to the end that the truth of the allegations herein made by your petitioner, as to the termination of these lotteries by an amount of sales, will, to the satisfaction of your honorable body, more fully appear.

And your petitioner further sheweth, that although the opinion expressed plainly appears to have been formed from reasons and conclusions not supported by either law or fact, he your petitioner would also crave leave to invite the particular attention of your honorable body to the 48d section of the Attorney-General's report of the 6th of April, 1832, where it is stated as follows: "Lotteries in schemes of mixed (land and money) prizes, may then be continued for the period of 'eleven years' from the time the literary institutions filed their assent to the act of 1822, which will expire on the 21st day of April, 1834; and beyond that time, in the opinion of the Attorney-General, there is no warrant of law for the drawing of any lottery within this State." That by this 48d section alone, to those unacquainted with the merits of this case, and especially those who place all confidence in the opinions expressed by the law officer of the State, it would appear that the true time from which to date the eleven years, was the 21st of April, 1822, instead of the 5th or 9th of April, 1822; and that *all the lotteries of this State*, if now drawing by authority of law, would, under the greatest limitation thereto *by time*, fully cease and determine on the 21st of April, 1834. But your petitioner would also crave leave to invite the attention of your honorable body to a subsequent, and it may be said to a contradictory statement by the Attorney-General himself, and contained in the 49th section of the same report, where it is stated, "It is true, upon the principles which have been advanced in this report," (not, as your petitioner also sheweth, that those principles were either "*legal*" or *equitable*,) "that the literature and Albany land lotteries may yet be continued for a limited time, without any reference to the amount of sales; *but if, after the lapse of that time, the right is claimed to continue the Historical Society and Fever Hospital lotteries, it must be upon the ground that those grants have not been legally satisfied*; and that the evidence which the law has prescribed for determining that fact, might properly be demanded."

Your petitioner further sheweth, that the statements made by the Attorney-General in the 43d and 49th sections of his report of 6th of April, 1832, and herein recited by your petitioner, are also recited substantially by the law officer of this State, in the 20th, the 21st and the 24th sections of his report of 7th of January, 1833; that in the second section of said last report, it is again stated, "that the literature and Albany land lotteries will cease on the 21st day of

April, 1834, by express limitation;" and that "the Fever Hospital and Historical Society lotteries will terminate at the same period, for the reasons that those grants will have been fully satisfied." But your petitioner further sheweth, that inasmuch as neither the institutions, nor the firm Yates & M'Intyre, as the agents of said institutions, or as the assignees of the said Fever Hospital and the said Historical Society lotteries, have made no returns of their sales in any scheme or schemes drawn since the 30th of August, 1826, he your petitioner is entirely at a loss to know, when or how the Attorney-General has had any "*legal* evidence" in hand since he made his report of 6th of April, 1832, showing that the said Historical Society and Fever Hospital grants had been fully and "*legally* satisfied."

And your petitioner further sheweth, that although the Attorney-General, at the time he wrote out his report of the 6th of April, 1832, was not only advised of errors to the amount of nearly (\$400,000) four hundred thousand dollars in the returns of sales then already made by said institutions and on file in the office of the Secretary of this State, but actually had in hand an affidavit stating that by the returns so made, corrected of errors, it appeared that the amount of sales up to the 30th day of August, 1826, instead of being only (\$2,743,793.38) two millions, seven hundred and forty-three thousand, seven hundred and ninety-three dollars and thirty-eight cents, as stated by the institutions or the said agents, was in fact (\$3,124,488.50) three million, one hundred and twenty-four thousand, four hundred and eighty-eight dollars and fifty cents; that notwithstanding said affidavit and the explanations then made in reference to the errors contained in the returns then on file, the Attorney-General in his report of 6th of April, 1832, stated the amount of sales made to the 30th of August, 1826, to be the sum of (\$2,743,793.38) two million, seven hundred and forty-three thousand, seven hundred and ninety-three dollars and thirty-eight cents, and only the sum of \$2,743,793.38; and that instead of correcting in his recent report the error he himself had made in his former report, notwithstanding also the Attorney-General then had information in hand that the sales made on and previous to the 30th of August, 1826, was to the amount of (\$3,124,488.50) three million, one hundred and twenty-four thousand, four hundred and eighty-eight dollars and fifty cents, he has stated in his report of 7th of January, 1833, that up to the 13th of April, 1826, inclusive, as appeared by the managers two certificates, that tickets at

scheme price had been sold and drawn to the amount of (\$2,372,585.88) two million, three hundred and seventy-two thousand, five hundred and thirty-five dollars and eighty-eight cents; whereas the true amount of their sales, in the schemes drawn previous to the 13th of April, 1826, and agreeably to said returns, corrected of errors, was (\$2,753,507) two million, seven hundred and fifty-three thousand, five hundred and seven dollars, being (\$380,971.12) three hundred and eighty thousand, nine hundred and seventy-one dollars and twelve cents more in amount than that stated by the Attorney-General in his report of January, 1833.

And your petitioner further sheweth, that although the fact cannot be denied that the lotteries now drawing in the city of New-York by the firm Yates & M'Intyre are *unauthorised* by any law of this State, yet inasmuch as it was expressly stated in the act of 15th of April, 1814, granting a lottery to the Historical Society in the city of New-York, that the money thereby granted should not be raised until after the said institutions had completed the lotteries granted them on the 13th day of April, 1814:—

That inasmuch as it was expressly *provided* in the act of 24th of March, 1823, granting a lottery to the corporation of the city of New-York, that “nothing contained in said act should be so construed as to authorise the said corporation to proceed to raise money by lottery until the termination of the time in which said institutions were allowed to complete their grants, without their assent;” provisions which the managers themselves have set forth again and again, in their statements or publications on the subject of lotteries:—

That inasmuch as John B. Yates, in a communication by him addressed to Samuel Starkweather, Esq. then chairman of the lottery committee, dated Albany, February 19th, 1827, informed the honorable Assembly, that owing to embarrassments, he, the said Yates, and his partner, Archibald M'Intyre, “had been obliged to pledge the Fever Hospital grant, and that said grant was then pledged for its full value;” which said grant may possibly be now pledged, and possibly also the conditions of that pledge are of such a nature that the person or persons holding the said grant will hereafter claim to be the *bona fide* holders or owners thereof:

That inasmuch, also, as the Attorney-General has within the last twelve months refused to grant a writ *quo warranto* which,



was solicited, to the end that this question, in which the very dignity of the State is deeply concerned, should be adjudicated and duly determined: *your petitioner* would also crave leave to submit for consideration to your honorable body, whether in the event that said grant to the corporation of the city of New-York could be shown not only under pledge, but to be the property of some other person or persons than that of the firm Yates & M'Intyre, and whether in the event that a new compact, as suggested in both the Attorney-General's reports as aforesaid, and reported recently by a committee of the honorable Assembly, should be made between the State and the said firm Yates & M'Intyre.— *Such an act* on the part of the State would not, to say the least, greatly add to the difficulties which unfortunately for the cause of truth and justice, have long been supposed to exist with regard to the question concerning lotteries; and whether such an act on the part of the State would not only be a violation of both the letter and meaning of the Constitution itself, but also whether any sanction whatever by the State to the continuance of the drawing of the schemes of mixed land and money prizes until the close of the present year, or for even one day longer than lotteries were authorised to be continued under existing laws, and as herein set forth by your petitioner, would not tend to prevent, if not wholly prevent, further inquiry being made, or any investigation at all of this case, even by the ministers of the laws themselves—notwithstanding it should plainly and satisfactorily appear that the Constitution had been violated, or although it should clearly and satisfactorily appear that but for this new compact the lotteries drawing within this State were, in the fullest sense of the term, *unauthorised lotteries*. Your petitioner would also submit for consideration to your honorable body, whether in case a compact were now made, and that by the terms of said compact the firm Yates & M'Intyre would close *their* lottery operations within this State on the 31st day of December next, or at an earlier day, (admitting that the Legislature could constitutionally enter into such compact, or that the Legislature should determine that the schemes of mixed land and money prizes had already terminated so far as law was concerned,) it might not hereafter be contended, and successfully contended, by a claimant or by claimants of said Fever Hospital grant, under circumstances as aforesaid, that the State itself had fixed a period of a termination or a period for a termination of the Literature and Albany land lotteries, and that subsequent to that time the Fever Hospital lot-

teries might be drawn, and for reasons already herein assigned by your petitioner:

That inasmuch also, as there are saving clauses in the said reports of the Attorney-General, or clauses well suited to claims of a nature as herein last mentioned, to claims which perchance will be set up for the drawing of the lotteries granted to the said Historical Society, and the corporation of the city of New-York, *after* the firm Yates & M'Intyre shall have ceased lottery operations within this State; claims, which, under circumstances herein mentioned, may hereafter be maintained, unless the present Legislature shall fully and effectually guard against such a management, and such a violation of the plighted faith of the State, as that now noticed by your petitioner:

That inasmuch also, as the Albany land lottery was consolidated by the said act of 13th of April, 1826, with the schemes of the literature lotteries only, and inasmuch as all the lotteries drawn within this State since the 30th of August, 1826, have been called "Consolidated Lottery," although about ninety of the two hundred and thirty-five schemes so drawn since the date last above mentioned, and previous to the first day of February, 1833, were not schemes of mixed land and money prizes, but schemes containing money prizes only:

That inasmuch as grand juries have, under existing circumstances, again and again refused to take up and investigate this matter, notwithstanding it was their duty, both by the laws and by their oaths, to duly and diligently inquire into the same, and true presentment make thereof, according to the laws and the evidence before them, and according also to the best of their knowledge and belief; and notwithstanding that they were repeatedly requested and urged so to do, and offered proofs that the lotteries then drawing in the city and county of New-York, by the firm Yates & M'Intyre, were unauthorised by any law of this State, and who have refused to indict for the reason, as was alleged, that the laws which authorised certain lotteries, had not been repealed:

That inasmuch as the firm Yates & M'Intyre are now drawing three, four or five hundred thousand dollars from the public, annually, by their lottery operations within this State without any authority whatever by law, and who have been already too abundantly rewarded for having violated existing laws, your petitioner



would submit to your Honorable body for decision, whether the laws, the high behests of the Constitution and justice to the people of this State, do not all demand, and imperatively demand, an investigation of this case, and a decision thereon by your Honorable Body, instead of leaving it subject to delay by the ingenuity of counsel, and forms of law, and to the decision of courts at some far distant day? Upon this last question, your petitioner especially prays the decision of your Honorable Body, to the end, that if we are longer to have within this State a nullification of the laws by the firm Yates & M'Intyre, by all means that hereafter we have it not, sanctioned by the representatives of the people.

And your petitioner further sheweth, that as well as having had more or less to do with the drafting or in obtaining the passage of certain laws concerning lotteries, passed the 5th April, 1822, the 24th March, 1823, the 27th February, 1824, the 13th April, 1826, the firm Yates & M'Intyre, or one of the individuals composing said firm, in certain communications to the Legislature in the years 1825, 1827 and 1829, made sundry misstatements on the subject, or in reference to the subject of lotteries, other than those herein already set forth by your petitioner, which were evidently calculated to deceive, and which doubtless did deceive, the Legislature in the years herein last aforesaid.

And your petitioner again sheweth, that the firm Yates & M'Intyre, while drawing lotteries duly authorised by law, not only exercised powers never intended to be granted them by the Legislature of this State, but that they exercised powers wholly at variance with their *original contract* with Union College for the right of drawing the lotteries granted said institutions, the exercise of which were extremely onerous both to the public and your petitioner, and caused an application to be made in 1825, by several hundred citizens of this State, as well as by your petitioner, to the Legislature for redress of grievances then already suffered by the petitioners at the hands of said firm, to which petitions, and the proceedings had thereon, your petitioner prays leave to refer your Honorable Body, to the end that your Honorable Body may be fully informed of the injustice then done not only to your petitioner, but done also to the people of this State.

And your petitioner further sheweth, that the question now to be determined by your Honorable Body, is not whether the afore-

said act of 13th of April, 1826, is, or is not constitutional, which fact has doubtless already been noticed by your Honorable Body; but that the question is: What are the rights and privileges granted by said last mentioned act, and what the full extent of those rights and privileges? and what also is the construction given to said act, or what the claims set up under it by the firm Yates & M'Intyre?—claims which cannot, as your petitioner again sheweth, be admitted them either in law or equity; or, in other words, that the question to be determined by your Honorable Body, is, whether the act or acts *done*, and *now doing*, by the firm Yates & M'Intyre, without any authority of law whatever, acts done and doing in defiance of the law, shall longer be tolerated by the State? Your petitioner therefore invokes, at the hands of your Honorable Body, a full investigation of all matters and things herein set forth, doubting not that upon making due investigation thereof, that that clause of the Constitution which says, "No lottery shall hereafter be authorized in this State; and the Legislature shall pass laws to prevent the sale of all lottery tickets within this State, except in lotteries already provided for by law," will, by your Honorable Body, be preserved inviolate.

In conclusion, therefore, and in consideration of the premises, your petitioner fervently invokes that justice at the hands of your Honorable Body, which will relieve your petitioner from those injuries of character he has sustained, and from that persecution and oppression to which he has been and is now subjected, by reason of that herein set forth, and that such other relief, founded upon the premises, be given to your petitioner, as your Honorable Body shall deem meet and just; and as in duty bound, your petitioner will ever pray.

PALMER CANFIELD.

*Albany, 10th April, 1833.*



**IN SENATE,**

**April 15, 1833.**

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**REPORT**

**Of the Canal Commissioners, on the petition of Peter Thalhimer, referred to them by the Senate.**

In answer to a resolution of the Senate of the 30th March ult. inquiring "whether any alteration was made in the contract with Peter Thalhimer, after the same had been consummated, and without the knowledge of the said Peter, and if so, by whom?" the undersigned, one of the Canal Commissioners, in behalf of the Board, herewith transmits to the Senate the contract of the said Peter Thalhimer, together with the estimate of Benjamin Wright, Esq. engineer, made thereon: And the undersigned respectfully states to the Senate, that the said contract was in his possession from the time it was signed by the said Peter, until it was submitted to the engineer as a direction for his estimate; and that the said contract has not, at any time, been in the least changed or altered, within the knowledge or belief of the undersigned, since it received the signature of the said Peter Thalhimer.

Respectfully submitted,

**S. YOUNG.**

**10th April, 1833.**



**No. 110.**

**IN SENATE,**

**April 16, 1833.**

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**REPORT**

**Of the committee on roads and bridges, on the petition of Philip Church.**

The committee on roads and bridges, to whom was referred the petition of Philip Church,

**REPORTED:**

The petitioner prays for a law authorising the Governor to grant a new license to erect toll-gates and collect tolls on ten miles of the Lake Erie turnpike. The petition states, that at the last session of the Legislature a law was passed, declaring thirty miles of that turnpike a common public highway, and authorizing the company to retain and collect tolls on the remaining ten miles; that many of the papers of the company have been lost, and among them the license formerly granted by the Governor for erecting toll-gates and collecting tolls.

The committee, in their report upon the petition of inhabitants of Allegany county, praying for a repeal of the charter of the Lake Erie turnpike company, (see Senate documents of the present session, No. 105,) have considered this subject, and come to a conclusion adverse to the views of Mr. Church. It cannot now be necessary to detain the Senate by an extended report upon this subject, as it appears to be among that class of cases which requires the publication of notice, which notice has been omitted in this instance. The committee therefore recommend that the petitioner have leave to withdraw his petition.



**No. 111.**

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**IN SENATE,**

**April 18, 1833.**

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**MEMORIAL AND REMONSTRANCE**

**Of the president, directors and company of the Commercial Bank against the passage of the bill to subject said corporation to the provisions of the act to create a Safety fund.**

***To the Legislature of the State of New-York, in Senate and Assembly convened.***

The memorial and remonstrance of the president, directors and company of the Commercial Bank of Albany, respectfully shews:

That your memorialists have observed with great surprize the introduction into the Senate of this State of a bill, proposing to subject your memorialists to the operation of the act to create a bank safety fund, and to change entirely the fundamental principles of their act of incorporation.

The introduction of the measure without any application, on the part of your memorialists, and without any previous notice which could have enabled them to submit their objections to the committee, renders it necessary that they should present to your honorable body their reasons for earnestly and respectfully remonstrating against the passage of the bill.

The act incorporating your memorialists was passed soon after some serious and alarming failures of banking institutions had occurred, and the vigilance of the Legislature was thus strongly excited to devise means which should protect the community against any possible loss by securing a perfect and undeniable responsibility for the redemption of the bills, and other evidences of debt, which your memorialists should issue. A Legislature composed of some of the ablest and most ingenious men of the State, among whom it



is hoped it may not be deemed invidious to name the late Comptroller, the Hon. Silas Wright Jr., and the Hon. John C. Spencer, now a member of your honorable body, devoted their best faculties to the perfection of a system which should attain the great object before mentioned. The principal feature of that system was the provision by which the stockholders of the bank were made individually liable, jointly and severally, for the payment of all notes issued by the incorporation. This provision was essentially that of the Scotch banks, which have been universally considered the soundest institutions in the world, and which have maintained their credit amidst all the convulsions of the money market and the wrecks of other institutions organized and conducted upon different principles. In effect it made the stockholders of the bank co-partners in loss, as well as in profits. It proceeded upon the principle that those who engage in any business for the sake of profit should run the risk of loss, instead of the members of the community who did not participate in the profits; and as the profit would be individual, so should the loss fall upon the individual who invoked the confidence of the public. Other provisions, novel in their character, and casting heavy responsibilities upon the officers of the institution, were also adopted, and human ingenuity seems to have been taxed to its utmost, to provide securities for the public. It was an experiment which many of the great capitalists in the State refused to encounter, and which the stockholders of the Commercial bank approached not without great apprehension; but believing, that with three-fourths of its capital stock actually paid in, in specie or its equivalent, with strict fidelity to the terms of their charter, with perfect integrity and with unceasing vigilance, they might comply with the severe terms imposed, they ventured upon an untried field. And your memorialists speak but the plain and simple truth, when they declare that under their organization the experiment has completely succeeded. It is not for any purpose of vain boasting, but solely to exhibit the facts of the case, that your memorialists remark that the credit of their notes, long before the enactment of the safety fund law, was established, and was equal to that ever possessed by any monied institution of this State.

The interest which the stockholders felt that all their co-partners should possess undoubted responsibility, has, as might be expected, caused the stock to be held, not only exclusively by citi-

zens of this State, but by those who will retain it, and are able to retain it, and to meet all the liabilities imposed by the charter; and thus an extent of individual responsibility has become pledged for the engagements of the bank, utterly unknown to any monied incorporation established upon different principles. And this has also led to a mode of conducting the business of the bank different from that of other banking institutions; for in order to retain stockholders of the description required, and particularly those who are directors, it has been indispensable to give them all the banking facilities which their business required and their ability justified; the further effect of which has been to deprive your memorialists of the means of extending their discounts so indiscriminately and so extensively as other banks. In fact, the features of their charter required a peculiar system of business adapted to them, in order to attain the great object of the Legislature—security to the public by means of the liability of responsible stockholders.

Your memorialists presume not to institute a comparison between the system devised by the Legislature, which granted their charter, and that devised by a subsequent Legislature. They only say that theirs has worked well; that it affords perfect security to the public, and that they therefore do not perceive any necessity for substituting any other system for it. Men may doubt whether the payment by banks of three per cent on their capital to constitute a safety fund, affords more protection to the public than the individual responsibility of the directors and stockholders. Into that question your memorialists do not enter. They only say that if the public are as well, if not better protected now than they could be by any other system, there should exist considerations of the most imperative nature to induce the Legislature to destroy that security which is admitted to be adequate; to derange a business that has grown up on the faith of the public pledge; to change the relations existing among the stockholders, and to alter the terms of the contract which have been entered into between the bank and its creditors.

Previous to inquiring into those considerations which are supposed to justify the proposed alterations, your memorialists respectfully beg leave to call the attention of your honorable body to the effect of these alterations in their charter, upon engagements already made. The creditors of the bank now possess, in effect, the ob-

ligations of all its stockholders. The continuance of these obligations is indefinite, and may be protracted for many years. It is supposed that these obligations cannot be impaired by any act of the Legislature. If the suggested alterations are made, and by any casualty a distribution of the funds of the bank should be necessary, what rule could be provided which should ensure the faithful discharge of the obligations already entered into, and at the same time provide for that equal apportionment among all the creditors (including those who should hereafter become such,) contemplated by the law creating the bank safety fund? Your memorialists have been at a loss for an answer, and they confess that it has appeared to them wholly impracticable to reconcile the contending claims and interests which would be created by an attempt to bring together two systems so entirely different. For your memorialists beg leave to remark, that to bring the institution which they represent, under the safety fund law, it will be necessary to make a total and fundamental change of their present charter; it is wholly impossible for the two to stand together.

Without denying the power of the Legislature to alter their charter, your memorialists still most respectfully suggest to your consideration, whether that power has not its limits arising from the pledge of the public faith, as well as those arising from constitutional provisions. Your memorialists supposed that such a power could not have been reserved for the purpose of utterly changing the whole course of business of a banking institution, subverting the fundamental and essential principles upon which that business has been conducted, destroying the security upon which it rests, and thus deranging its affairs, and most seriously affecting the interests of its stockholders. That such will be the effect of the proposed alterations, your memorialists cannot doubt, and they believe your honorable body will pause before it thus unnecessarily inflicts such an injury without any adequate public benefit. Your memorialists would be unfaithful to their constituents, if they did not also submit to the consideration of your honorable body, the question, whether the reserved power referred to, justifies the imposition of a new burthen upon the corporation or its stockholders, whom your memorialists represent, in the shape of an exaction of six or seven thousand dollars as a security for the payment of the debts of other corporations? And whether it justifies the legislative application of that portion of your memorialists' property without

their consent, to the payment of debts which they never contracted?

Your memorialists have been wholly unable to perceive in such an exaction; and in such an application, any resemblance to the acknowledged right of taxation. Taxation is a public, equal and general burden, imposed for the purpose of deriving revenue for the support of government. Its proceeds are destined to the general treasury, for public purposes, and are subject to appropriations by successive Legislatures. If the Legislature should direct the city of Albany to deposite, under the control of the Bank Commissioners, \$10,000, to pay certain debts that might be incurred by the city of New-York, it would scarcely be called a tax. Indeed, it might well be questioned whether any government on earth had the power to compel a subject to guarantee the debt of another without his consent, and much more might it be questioned, whether any government could take the property of one man against his will, to pay the debt of another. In this respect, your memorialists suggest that they stand upon a footing entirely different from that of the banks which solicited and obtained charters under the safety fund law. These banks agreed to become responsible for the debts of their co-partner banks, as the condition of their incorporation. Your memorialists can never make such an agreement. They have no authority under their general powers, as directors, thus to bind their stockholders. If they were soliciting a favor from your honorable body, it would doubtless be competent to impose such conditions as your wisdom might suggest; but as no such case is presented, it is respectfully contended that the reservation in the charter of your memorialists, can confer no original powers to impose any burthen on your memorialists which could not be imposed on any citizen of the State. So far as their rights of property are concerned, they constitute a person, and those rights cannot be infringed or impaired any more than similar rights of individual citizens. And your memorialists can never admit that the right of the Legislature to alter or repeal their charter, carries with it an authority to take their property for any other purpose or in any other manner than the property of every other citizen of the state may be taken for the payment of taxes equally and impartially imposed upon all. In no other way can the property of the humblest citizen of this State be taken without making him just compensation.

Your memorialists forbear pressing this subject, and abstain from presenting many other important considerations against the project under consideration, which have occurred to them, because they believe that those already presented are such as will induce a wise and provident Legislature to withhold its assent to a measure which appears to your memorialists so irreconcilable with all fundamental principles of justice, so hostile to the provisions of our Constitution, and so deeply injurious to private rights. No precedent or authority for such an act can be found in the legislative annals of this country.

With great respect your memorialists will now briefly notice the considerations which are urged in favor of the expediency and propriety of the proposed measure. They have in vain endeavored to comprehend the argument which supposes that it would be an act of justice to the banks which have accepted their charters under the Safety fund act, upon terms assumed to be "more disadvantageous," *that all other banks* should be compelled to conform to the same terms. Your memorialists cannot conceive what rights other banks have in this matter. Certain franchises have been granted to them, on their own application, and which they have gladly accepted, with certain limitations and liabilities. It would seem as idle for them to complain that other institutions had different franchises, or were unincumbered by those conditions and liabilities, as it would be for one citizen to complain that another individual had more property than himself, or greater capacity for the transaction of business. The franchises of a corporation constitute its property, its capacity; and the differences in these franchises, either as to their duration or nature, make corresponding differences as to the institutions themselves. A loan company or trust company engaged in the same business with banks, of lending money, might with equal propriety complain that banks are not subject to the same restraints that are imposed on them; they might as well say that their profits had been lessened in consequence of the inequality. If equality as to the means of deriving profits be just and desirable, your memorialists cannot perceive why those banks which have not paid any bonus should not be placed on an equal footing with those which have made such payments. Upon this assumed principle of "equality and justice," the Fulton Bank, which gave more than one hundred thousand dollars for its charter, would have a right to call upon your honorable body to ex-

act a similar payment from other banks, so that the profits of the bank should not be lessened by reason of the inequality.

It may be further observed, that the avowed object of placing all the banks of the State "*on a uniform basis*" seems scarcely attainable from want of constitutional power to control those institutions in whose charters the power to repeal or modify is not reserved. The act of 1825, to prevent fraudulent bankruptcies of certain monied corporations, operated on corporations previously existing, not by changing any of their franchises; it did not impair any existing right or impose any new terms on the corporations as the condition of the exercise of their rights; but it was strictly remedial, operating upon their officers individually; and all its provisions were calculated to enforce existing rights of creditors and of the State, by furnishing the means for speedy decisions, and by declaring and rendering definite and explicit the common law rule, respecting a surrender of corporate franchises. And that the Legislature did not intend to apply any of the restrictions of that act to existing corporations in their corporate capacity, your memorialists think will be evident by a reference to the 7th and 17th sections, which prescribe the duties of the Attorney-General in respect to proceedings against them for violations of their charters, and the cases in which such proceedings are to be had. The general law of the land in respect to legislative power over contracts made with corporations in the form of charters, your memorialists had supposed was too well settled at this day to be shaken by a precedent, to say the least, of very doubtful application; and they must believe, that upon examination, the Legislature will be entirely satisfied of their want of power under the Constitution of the United States, to infringe in any manner, or to any extent, the rights and franchises granted to those institutions in whose charters no such power is reserved.\* If your memorialists are correct in this view of the subject, there will remain some banks in this State which cannot be placed on "the uniform basis" with those under the safety fund law. Hence the whole value of the argument seems to fail, since a perfect uniformity cannot be produced. And this your memorialists would observe is independent of the objections already urged against the power of the Legislature to compel those corporations not now

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\* See Dartmouth College case,—12 Wheaton.



subject to the safety fund law to contribute their property for the security and payment of the debts of other institutions.

The idea that a false confidence may be reposed in particular portions of the circulating medium, from a belief that all is equally secured, proceeds on the hypothesis that our fellow citizens cannot discriminate between the paper of banks conducted under different systems; a supposition which, your memorialists think, is not warranted by experience, or the known caution and sagacity of the people of this State; and your memorialists do most respectfully urge, that in their case, it is not possible that individual loss and suffering can ensue from a false confidence in their paper, derived from the good credit of the banks under the safety fund system; simply because the individual liability of every stockholder in their bank for the payment of their notes, must, from the nature of the case, forever continue an inexhaustible security against loss by the public. Before a holder of a bill issued by your memorialists can possibly suffer, the whole amount of discounted notes and bills must prove worthless; the whole amount of the capital of the bank must be exhausted, and the stockholders of the bank must have become insolvent. The improbability, if not the utter impossibility of these events, in the opinion of your memorialists, justifies them in saying, that as their paper does not require, so it will not be likely to receive, any benefit from the reflected credit of any other banks, and that in fact the public will not be better secured against loss than they now are, by placing the institution which we represent on a "uniform basis" with other banks.

Why then, we respectfully inquire, disturb that which is already sound and secure, against which no complaint has been uttered, and of which no apprehension has hitherto been expressed?

A theoretical conformity, even if it were attainable, without any practically beneficial results, is not of sufficient importance to justify the modification of numerous charters, and your memorialists respectfully ask, whether there may not be some important public advantages in retaining the different kinds of responsibilities now existing in the banking institutions of the State? particularly as the safety fund system itself has been but recently adopted; thus furnishing the public with all the alternatives of confidence and security in every possible event: so that if by any possible mischance the institutions under one system should become embar-

passed, those acting under different liabilities might afford a stopping place to the panic that would inevitably ensue.

In view of all these considerations, seeing how little if any public advantage can be obtained by the proposed alterations, how injurious they will affect the interests of those whom your memorialists represent, how difficult it will be to avoid impairing the obligations of existing contracts, and how very questionable would be the exercise of a power to take arbitrarily from your memorialists any portion of their property without their consent, for the payment of the debts of others, and to compel them to become copartners with others against their will, your memorialists do respectfully but firmly remonstrate against the passage of the bill now pending before the Senate to subject them to the safety fund law, or to the passage of any similar bill.





**No. 112.**

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**IN SENATE,**

**April 18, 1833.**

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**REPORT**

**Of the Canal Commissioners on the petition of  
Joseph E. Bloomfield.**

The Canal Commissioners, pursuant to the resolution of the honorable the Senate of the 19th January ult. requiring them "to report to the Senate;" as early as practicable, a statement "of the facts relative to a certain lease of surplus water flowing from the Erie canal at Utica, executed by them to Maria Miller in the year 1829, and revoked in 1832;" and to whom was also referred the memorial of Joseph E. Bloomfield on the same subject,

**RESPECTFULLY REPORT:**

The memorialist represents, that the Canal Commissioners; March 27, 1830, executed to Mrs. Maria Miller, pursuant to an appraisal by the State appraisers, a lease of the surplus waters wasting from "the weigh-lock and waste-weir adjacent thereto" in Utica; that on the 14th September, 1831, he entered into an agreement with Rutger B. Miller to erect, on the premises upon which said waters flowed, a flouring and grist-mill; that in Sept. 1831, he commenced the erection of such mill, and commenced running the same about April 15, 1832, and had expended in its erection more than \$26,000; and that the Canal Board, by resolution of 10th March, 1832, had revoked said lease on two alleged grounds: firstly, that the lease was not authorised by law, and that the Commissioners had acted without the sanction of law: and secondly, that the counterpart of the lease was not filed at the precise time specified by law. The petitioner represents, that without these surplus waters his mills will be of no value; and that the rent in this case was fixed at a low rate or small sum, because Mrs. Miller had relinquished claims for damages to lands taken for  
[Senate, No. 112.]

the use of the State, for the purpose of erecting the weigh-lock and conducting the waters therefrom to the Mohawk river, and because she had been at great expense in constructing a basin, without which boats could not turn to enter that lock.

A statement of the facts in this case, as they are ascertained by the Commissioners, will, it is believed, correct the mistaken allegations and erroneous reasoning of the petitioner, and enable the Senate with reasonable certainty to decide the case so as to preserve the rights of the State, and without injury to any of the rights of the petitioner.

Near the weigh-lock in the easterly part of the city of Utica a waste-wier was constructed, fifty feet in length, at a point where a small stream was crossed by the Erie canal, to permit the waters of that stream, during freshets and floods, to pass without injury to the canal. These and the waters of the waste-wier, it is believed, have always passed freely, and without injury to the adjoining lands, in the old channel of the stream to the Mohawk river. The proprietors of the land, for their own advantage, converted that part of this stream above and adjacent to the canal into a basin, connected with the canal at that place; and the stream thus directed by them into the canal was of itself too inconsiderable for hydraulic purposes.

On the 6th of November, 1829, Maria Miller presented to the Canal Commissioners her petition, praying a grant of these surplus waters, in these words:

“To the honorable the Canal Commissioners of the State of New-York: The petition of Maria Miller, of Utica, Oneida county, respectfully represents, that she is the owner of the lands upon which the water falls from the waste-weir at Utica; that said water will probably be sufficient to carry small machinery the greater part of the year: she is therefore desirous of having the said water appraised, according to the provisions of the statute in such cases made and provided.

(Signed)

MARIA MILLER.”

At a meeting of the board of Canal Commissioners, held at the city of Albany, November 13, 1830, Mrs. Miller's petition was heard, and the board resolved that “the canal appraisers be

requested to appraise the value of the surplus water which may be wasted at the waste-weir near the weigh-lock at Utica."

On the 29th of January, 1830, the appraisers estimated and certified the value of these surplus waters for each of the two years succeeding the date of the lease at twenty-five dollars, and for each year thereafter at fifty dollars. The petitioners mill would require a water power which in so flourishing a village as Utica then was, and contiguous to the Erie canal, could not be estimated, it is believed, at less than four or five hundred dollars per annum. But the low estimate of the appraisers was not an under estimate of the value of this water power, or attributable to any of the reasons assigned by the petitioner.

For any relinquishment, by Mrs. Miller, of damages done to her property by reason of the canal, its weigh-lock, waste-weir, or the waters from either, or any basin made by her, Mrs. Miller had abundant and valuable considerations in the enhanced value of her property by reason of these public works. As these ought not, so they did not, enter into the estimate of the appraisers. That estimate was founded on the actual and probable extent of the right, and the conditional character of the grant to be made.

In her petition Mrs. Miller expresses an opinion that *the "water would probably be sufficient to carry small machinery the greater part of the year;"* an expression utterly incompatible with a supposition that the power could be regarded as sufficient to operate large machinery, like the mills of the petitioner, at any time, and representing it as merely *probable* that it would prove-sufficient for *small machinery* during a *part* of the year. The water power here was not created by taking the water from a higher to be discharged into a lower level of the canal to supply feed and lockage below, a probably enduring operation and consequent power. But it was a power created by the waters which could, without injury to the navigation, be wasted from the canal on a level where the feeder was taken in at a distance of fifteen miles, and where the same level must be kept up for nine miles farther east, and from which level there must be taken water to supply a lockage of about twenty-four feet in the descent of the canal eastward. To limit the extent of the right, and enable a future equitable apportionment of the rent in case of a partial resumption of the waters by the State, the appraisal was made on the waters which, without

injury to the navigation, could be taken during the season of navigation from a waste-weir only fifty feet long and not more than two inches below the top water line of the canal. Even in winter, and when the canals were not navigable, this drain by the appraisal could not be made more than one foot below that water line; and it was a part of the law, known, it is to be presumed, alike to the grantee and the appraisers, that no water could, at any time, be taken to the injury of the navigation, and that the State, at any time when the interest of the navigation and transport might require it, might resume the whole of the waters without paying any damage whatever to the grantee or her representative. Accordingly these limitations and conditions are clearly and substantially expressed in the lease signed by the Canal Commissioners; and the law required (canal laws, part 1, chap. 9, title 9, article 5, sec. 93,) that these waters should not be wasted over more than six inches below the top water line of the canal,

From this representation of the nature, extent, limitations and conditions of this water power, and the grant of it, it will be seen that it was a water power *probably* fit only for *small machinery*, to be operated *only part* of the year, liable to interruptions at every dry season, and its perpetuity rendered improbable by the increasing wants of the increasing canal navigation. It was regarded as such by Mrs. Miller, and it was such in its nature, from circumstances too obvious to have escaped the observation of her grantees.

In pursuance of this appraisal, the Canal Commissioners executed a lease of this water right to Mrs. Miller, dated March 27, 1830. Without acknowledgment or proof, this lease is certified to have been recorded Nov. 24, 1831. It is not known to the Canal Commissioners that Mrs. Miller, under her hand and seal, ever executed (except the signed copy annexed to the petition,) or delivered to the acting Canal Commissioner any counterpart of this lease. From the language of the petition, as well as the fact that none has been presented by the Commissioner, it is fairly presumable she never did deliver such counterpart to him. The lease signed by them was presented to the Comptroller, January 6, 1832: and the Canal Board, as appears by the extract from their minutes accompanying the petition, on the 10th of March, 1832, on hearing Mr. Miller, the grantee of Mrs. Miller, and on a full consideration

of the subject, ordered the lease signed by the Commissioners to be cancelled.

The grant, by its terms, does not extend to the waters discharged by the weigh-lock, but is confined to the water wasted by the waste-weir. Although for the purpose of subsequently apportioning the rent in the event of a partial resumption of the grant, it recites the appraisal, it is made on the express limitation that the surplus water should be taken only so far as might be done "without interfering with the due and proper use of the water for the purposes of navigation or transportation," and on the express reservation that the State might at any time resume the water and privileges granted without paying damages or allowing compensation for improvements or erections, and also the right to the State, without making any such compensation, wholly to abandon or destroy the work (in this case the waste-weir,) by which the water power was created, whenever in the opinion of the Canal Commissioners or the Legislature of the State, the work should cease to be advantageous to the State. These limitations and conditions, though not in form, are in substance, the same as the limitations and restrictions prescribed by the canal law, Nos. 6 and 7 of section 90, and are good and valid against the grantee and all claiming under her.

The waste-weir in question is necessary during all seasons of floods and freshets of the small streams, the waters of which, falling into the basin made south of the canal, here find their way into it. But the experience of the last two years incontestibly proves, that at all ordinary seasons the interests and necessities of the navigation and transportation on the Erie canal requires that no water should be wasted or taken off at that waste-weir. Within that period it is known that the water in that part of the canal has been often depressed below the top water line of the canal, and especially at the eastern extremity of the level. To maintain a proper height of water at the eastern extremity of that level, it is necessary that the water at this waste-weir should be kept up to the top water line, and it would be entirely proper to raise that waste-weir a few inches above that level to prevent occasional waste at that point. The increased necessities of the still increasing navigation and transportation on the canal, probable at the time of the appraisal, have already by the express limitations of the grant, diminished the small value which the appraisers put upon it.

The risk of the abatement or destruction of the value of the grant from these causes was, as well by law as by the express terms of the grant, assumed by the grantee and her assigns. If the lease had not already been cancelled by the Canal Board, the interest of the State would require the Canal Commissioners to do as they have done, maintain this waste-weir to the height of the top water line of the canal, and may, to prevent an occasional waste of water, hereafter require them to raise it somewhat above that line.

Delay in making this report has taken place, consequent upon the request of the petitioner.

All which is respectfully submitted.

*April 16, 1838.*

MICHAEL HOFFMAN,  
WM. C. BOUCK,  
JONAS EARLL, Jun.,  
S. YOUNG,

**No. 113.**

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**IN SENATE,**

**April 20, 1833.**

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**REPORT**

**Of the select committee on the petition of the trustees of the proprietors of common lands in the town of Southampton, for a law to inclose said lands, and a remonstrance against the same.**

Mr. Sherman, from the select committee to which was referred the petition of the trustees of the proprietors of common lands in the town of Southampton, praying for a law authorising them to enclose said lands, by fencing across certain highways; and also the remonstrance of the trustees of the freeholders and commonalty of the said town against the prayer of the petitioners,

**REPORTED:**

That the petitioners represent that they, with their associates, the proprietors aforesaid, are owners of common lands within the said township, as tenants in common, a tract of which of about 3,000 acres is so situated that it cannot be improved without fencing across certain highways, and for that purpose a law was formerly passed, authorising the trustees of the freeholders and commonalty of the town aforesaid to inclose the said tract, by erecting good easy swinging gates on the said highways, in which manner it has been improved at different times for forty years past.

But as by the charter of the town, the trustees of the freeholders and commonalty were elected in town-meeting, a majority of which electors have no interest in said common lands, it was mutually agreed to petition the Legislature for a law that the proprietors aforesaid should exclusively elect trustees to manage their lands, meadows, &c. Accordingly a law was passed, but the au-



thority to fence and erect gates as aforesaid, was inadvertently omitted to be transferred to the trustees thus constituted. The petitioners therefore request the passage of a law transferring to them the power of enclosing the said tract, by fencing across the aforesaid highways. The remonstrants set forth, that it is highly improper to place gates on the highways referred to by the petitioners, and request that no legislative action may be had on the subject the present session.

Your committee, therefore, after duly considering all the circumstances of the case, are of opinion that the prayer of the petitioners ought not to be granted, and that they have leave to withdraw their petition. They therefore offer the following resolution:

*Resolved*, That the prayer of the petitioners ought not to be granted, and that they have leave to withdraw their petition.

**IN SENATE,**

**April 20, 1833.**

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**REPORT**

**Of the Canal Commissioners on a bill entitled "An act for the relief of John M'Intyre and others."**

The Canal Commissioners, to whom was referred by the Senate a bill entitled "An act for the relief of John M'Intyre and others," accompanied by two petitions and several affidavits, submit the following

**REPORT:**

The petitioners represent that they are owners and proprietors of lands lying on the Fort Edward creek; that one or two years ago a waste-weir was rebuilt near Durham's Basin, which discharges twice the quantity of water formerly discharged in the aforesaid creek, and that two waste-weirs from which the water formerly passed into Wood creek have been closed. They farther allege, that in the wet part of the season, the water from the canal is discharged in such quantities into Fort-Edward creek as to overflow its banks and destroy the crops; that during the dry part of the year the supply from the canal is so scanty and insufficient that the channel of Fort-Edward creek has become diminished, both in depth and width, by the growth of weeds, wild grass, &c.

The line of the Champlain canal on the summit level intersects thirteen small streams or rivulets, which are taken into the canal. Fort-Edward creek is one of the streams referred to; its source is very considerably elevated, and it probably discharges more water than all the other streams combined.

Four of these streams were tributary to Fort-Edward creek, which discharges its water into the Hudson river, and eight were

tributary to Wood creek, which discharges its water into Lake Champlain. At the time the canal was constructed, a waste-weir was placed in the lower bank of the canal where it crosses Fort-Edward creek, for the purpose of discharging the surplus water of this stream, and two smaller waste-weirs were also made a short distance from this place, the one north and the other south of it, from which the water is discharged into Fort-Edward creek. Two additional waste-weirs were made on the summit level, from which the water passed into Wood creek. The waste-weir located in the channel of Fort-Edward creek, rested on a bad foundation, and was not sustained more than one or two seasons, when it became so insecure as to render it necessary entirely to remove it, and put in its place an embankment.

After this period and until 1829, no water was wasted from the canal into the channel of Fort-Edward creek except that which passed from the two small waste-weirs heretofore referred to, and this quantity was much less than originally passed in this stream. The closing of the waste-weir which had been located in the channel of Fort-Edward creek, rendered it necessary to pass into Wood creek a much larger quantity of the surplus water than properly belonged there, and it gave rise to complaints and claims for damages from the owners and proprietors of lands in the valley of the latter stream.

In 1828, a new waste-weir was erected near the channel of Fort-Edward creek, for the purpose of discharging the surplus water of that stream into its old channel. The present arrangement of waste-weirs on the summit level has been made with the intention of passing into the Fort-Edward creek and Wood creek, the surplus water which properly belongs to each. These are the directions given to the Superintendent who has that section of the canal in charge, and it is believed that he has conformed to them as far forth as is practicable. The Fort-Edward and Glen's-Falls feeders conduct the water of the Hudson river into the canal on the summit level, but the Superintendents are instructed to limit the quantity to the requirements of the canal, for the purpose of navigation.

During the period that the waste-weir originally constructed in the channel of Fort-Edward creek was closed, the channel of this stream became obstructed by trees fallen across it, by logs and other materials, a part of which were put there, as is supposed, for purposes connected with the adjoining lands, and by willows and alder bushes, which have sprung up after the water was taken from it.

The complaints of the petitioners have before this period been made to the Acting Commissioner, who, in company with the Superintendent, has examined that part of the channel of this stream which is complained of. The Superintendent was instructed to incur such a portion of the expense for removing the obstructions as were properly chargeable to the State, if the owners of the adjoining lands would contribute such a portion of the expense as would remove the obstructions growing out of the causes, other than the taking the water from the stream. The Superintendent has reported that the owners and proprietors of lands interested in removing the obstructions having declined to aid him, and that he has consequently done nothing.

It is not believed that the quantity of water which is ordinarily wasted into Fort-Edward creek would be injurious, if the channel of this stream was cleared; nor that a greater quantity is discharged during the heavy rains than the stream would discharge if it was not intersected by the canal.

All which is respectfully submitted.

W. C. BOUCK,  
S. YOUNG,  
JONAS EARLL, Junior,  
MICHAEL HOFFMAN.

*April 17th, 1833.*



**No. 115.**

**IN SENATE,**

**April 20, 1833.**

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**REPORT**

**Of the committee on finance, on the resolution of the Senate, instructing them to examine the hall occupied by the State officers, and to inquire as to the security of the public documents and papers from fire.**

The committee on finance, to, whom was referred the following resolution:

**STATE OF NEW-YORK, }  
In Senate, April 4th, 1833. }**

*Resolved,* That the committee on finance be instructed to examine the hall occupied by the State officers, with a view to the repair of the building, and to inquire as to the security from fire of the public documents and papers, and that they report by bill or otherwise.

By order.

**JOHN F. BACON,**  
*Clerk.*

**REPORTED:**

That the building for the public offices was erected almost forty years since, and at a time when our population did not amount to one-fourth part of its present numbers. The building was at that period, and for many years sufficiently capacious and secure, having three good fire-proof rooms on the first floor, now occupied by the Comptroller and Secretary of State, and three other rooms on the second floor, occupied by the Canal Board, Surveyor-General and Supreme Court clerk. The first and the last, though not fire-proof, are capacious and useful rooms. The Surveyor-General

ral's room is inconveniently small. The clerk's room is not deemed sufficiently secure from fire; and the Canal Board require another room for their sittings, which must continue to be frequent and protracted, and so much crowded by contractors, suitors, witnesses, attorneys, &c., as greatly to interrupt and embarrass the business of the Deputy-Comptroller for canals and his clerks.

All the offices connected with the public service are now found to be either insecure or contracted, except that of the Secretary of State. A portion of the books and documents of the Comptroller's office are crowded out of the old building, where they would be secure, into the wing, where they are exposed to both fire and water. Add to the inconvenience felt by these departments, the Treasurer, the Attorney-General, the Register in Chancery and the Adjutant-General, are all badly located in the wing or new building which was erected in the year 1826, under a limited appropriation, unfortunately quite inadequate to the object and to the wants of the State at that period. An effort however was made to procure by the appropriation the requisite number of offices; the consequence was, a bad building, contracted and insecure offices—none of them fire-proof. The apartment adjoining the Comptroller's office and occupied by him, leaks water from above; the Register's room on the basement is ruinously damp and mouldy from below.

The committee have examined the building with care, and after much deliberation have concluded to recommend that the wing which was erected in 1826 be taken down and another of somewhat larger dimensions be erected in its stead, to be two stories high, both fire-proof.

To give suitable thickness of wall and enlarged dimension to all the offices, it is probable that ten or twelve feet more width would be required, and perhaps fifteen or twenty feet more in length.

Such a building, connected with the substantial and good old building in front, would accommodate the public for very many years to come.

The committee deem it best not to limit the appropriation, otherwise than by the judgment and prudence of the public officers, and have prepared a bill accordingly.

All which is respectfully submitted.

A. BRONSON, *Ch'n.*

**No. 116.**

**IN SENATE,**

**April 20, 1833.**

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**REPORT**

**Of the Canal Commissioners on the bill entitled "An act for the relief of Neal Brown."**

The Canal Commissioners, to whom was referred by the Senate the bill entitled "An act for the relief of Neal Brown,"

**REPORT:**

The Commissioners have examined the report of the Canal Board to the Assembly, dated March 9th, 1832, and they concur in the conclusions of said Board; "that Brown has been a sufferer by his contract; and if the Legislature should think proper to extend to him the same rule of allowance which was adopted by the Canal Board in the case of Daniel Stevenson, there would be due him" \$1,056.97.

The report of the Canal Board states that "Brown failed to fulfil his contract, and Stevenson, as the surety of Brown, made a verbal agreement with the Acting Canal Commissioner, on the 20th September, 1826, to execute the work which remained to be done for the prices contained in the contract to Brown." This should not be regarded as an abandonment of the contract on the part of Brown; the contract never having been resumed by the State. The Commissioners understand, that although Stevenson finished the contract, it was with an understanding that he should be indemnified for all his expenses by Brown; and that Brown has actually, since the allowance was made by the Canal Board to Stevenson, paid Stevenson the amount he had expended over and above the sum he had received from the State; and it would there-



fore be equitable to regard the contract as having been finished by Brown, the same having been done by his surety wholly at Brown's expense.

All of which is respectfully submitted.

*April* 18, 1833.

W. C. BOUCK,  
JONAS EARLL Junior.  
MICHAEL HOFFMAN,  
S. YOUNG.

**No. 117.**

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**IN SENATE,**

**April 22, 1833.**

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**REPORT**

**Of the committee on finance, on the bill from the Assembly to construct a bridge in the towns of Athol and Warrensburgh, Warren county.**

The committee on finance, to whom was referred the bill from the Assembly to appropriate \$4,000 from the public treasury to construct a bridge across the Hudson in the towns of Athol and Warrensburgh, in the county of Warren,

**REPORT:**

That the petition asks for the appropriation,

1st. Because the State is the proprietor of about 13,000 acres of land, appropriated to the school fund, near the contemplated bridge: and,

2d. Because the two towns are unable, without unreasonably burthening their citizens, to construct said bridge themselves.

In relation to the school fund lands, if they were to be duly burthened for this improvement with the remaining lands of the two towns, they would contribute \$400 for a bridge costing \$4,000, or 10 per cent of its cost, this being the proportion, or nearly so; which these lands bear in quantity to the other lands of these towns, provided they average in size with the other towns of the county.

But the committee believe it would be better policy in the State to sell her wild lands at the reduced price which they must bring without improvement, than to hold them and endeavor to add to their value by contributing, even in due proportion, to the improve-

ments which have been or may be projected in their neighborhood, and still better for the petitioners that they be sold to settlers, who would increase their value by cultivation, and thereby augment the fund on which they could draw for local improvements.

In relation to the burthen with which this improvement would oppress the towns, or the inconvenience of postponing it, we have no reason to suspect an exaggeration. The towns are large in territory, and contain little more than two thousand inhabitants. The river is in this region rapid, and when swollen difficult to ford for a long period; and we presume the travel would not remunerate the capitalist in tolls if a charter should be granted.

This is one of the privations and inconveniences which the settler of a new country always encounters, and which he balances against the advantages which the location presents, in cheap and productive land, valuable lumber, facilities for manufacturing and transporting it to market by the very river which interposes the impediments to intercourse between citizens and neighboring towns.

This appropriation would involve the policy of making roads, bridges and other improvements by public money in any town in our State, eight or nine hundred in number. Nor are the wants of the new settlements more pressing than the old ones. Even the city of New-York is so heavily burthened, that her citizens find themselves unable or unwilling to encounter the expense of procuring, in ample quantities, one of the first necessities of life, good and pure water.

The committee deem it inexpedient to draw funds from the people to expend again in local improvements throughout the State; the subjects for expenditure could not be judiciously selected or the funds economically applied; and they believe it better that the State should not collect and disburse the money of her citizens in any case where local authority or private funds can be brought to bear upon the subject of expenditure.

They are of opinion, therefore that the bill referred ought not to become a law.

All which is respectfully submitted.

ALVIN BRONSON, C<sup>Y</sup>.

**No. 118.**

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**IN SENATE,**

**April 26, 1833.**

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**REPORT**

**Of the select committee on the memorial of Adam Hoops.**

The select committee, to whom was referred the memorial of Adam Hoops, praying for relief in relation to the injuries he has sustained under certain contracts with the Holland land company, submit the following

**REPORT:**

The committee have had under their consideration the said memorial of Adam Hoops and the interesting documents accompanying it. The facts contained in them refer to an early period of the history of a part of the State, which at that time was almost without population, (except the natives of the forest,) and into which civilization had scarcely shed a single ray. The memorialist, then in the vigor of life, possessed of mental and corporeal faculties well calculated for the enterprise into which he proposed to enter, applied in the year 1800, to Mr. Paul Busti, the general agent of the Holland land company, who were owners of about 3,800,000 acres of land west of the Genesee river, in the then county of Ontario, for the purchase of a portion of their land, to be paid for by means of sales to actual settlers thereon; an object no less desirable to the proprietors than beneficial to the State. After various negotiations between the agent and Major Hoops, the particulars of which fully appear in the documentary evidence laid before the committee, a contract was executed by and between Major Hoops and the company on the 31st of January, 1803, and by which contract it appears that certain lands situated in part in the now county of Cattaraugus, and in part in the now county of Allegany, and principally lying on and adjacent to the Allegany river and the

*Ischua* creek, now called the Olean, and containing 20,000 acres, were agreed to be purchased by Major Hoops from the said Holland land company. It also appears that the leading object of Major Hoops in making such purchase, was a design on his part to open a communication between the eastern and western states, through the lands of the company, by means of some town or village to be established on the Allegany river as a place of embarkation, and a road to be made leading thereto from the settled parts of this State, and thereby giving great value and importance to a large portion of such lands. This object was fully known to and approved by the agent of the said Holland land company; the agent having also assured Major Hoops that his views in making such purchase should be encouraged and promoted by the said company. A provision was also contained in the contract for the company to open a wagon road, if required, from or near the big tree on the Genesee river to the Allegany river, at or near the mouth of the Ischua creek; such a road being indispensable to the success of Major Hoops' plan and to the settlement and improvement of the land. On the 26th of April, 1805, the contract between the company and Major Hoops was renewed, with some slight alterations, and at the same time the boundaries of the land contracted for by Major Hoops were more particularly described.

The road above mentioned was not made agreeably to the contract, and it no doubt contributed in no small degree to retard the contemplated improvement by Major Hoops, and to embarrass him in meeting his payments to the company. In addition to this, his sales to persons willing to become settlers were much circumscribed, and in some instances wholly obstructed by certain rumors that he could not give them a good and valid title. Whether the allegations of Major Hoops that these rumors were set on foot by one of the agents of the company be correct or not, the committee have no means to ascertain or determine, but it is certain that these rumors proved in the end a serious calamity to Major Hoops. For owing to these and the other adverse circumstances above mentioned, Major Hoops was compelled to part with one-half of the land contained in his contract to Mr. Nathaniel Norton, who was a man of fortune, enterprise and influence.

Mr. Norton dying shortly after this arrangement, the company, by its agent, conveyed the said one-half to Ebenezer F. Norton, who was concerned originally with the deceased in the purchase,

and the other half was, on the 8th of September, 1807, conveyed by the company's agent to Major Hoops. On receiving this conveyance, Major Hoops was required to execute a bond and mortgage to the company on the said half, for \$10,989.84, with interest, payable in three several instalments, to wit: in 1814, 1816 and 1818. By this arrangement, the original contract was wholly changed and annulled; but apprehensive of total ruin unless he acquiesced in receiving a deed annulling the original contract, and executing a bond and mortgage, he saw no other way of avoiding the dilemma in which he was placed. Major Hoops, however, was assured by the agent that the principles of the original contract should apply with equal force to this new arrangement, and that the company would never avail themselves of any advantage inconsistent with that contract, and their uniform and acknowledged liberality to purchasers. An assurance, however, which seems to have been little regarded in the company's subsequent treatment of Major Hoops. The company afterwards (in October, 1814) agreed to extend the credit on all the instalments to the first of April, 1820, on condition that Major Hoops should give a new bond and mortgage, and deposit with the agent all contracts, bonds, notes and money he should receive on all future sales made by him, till the whole debt was paid.

It seems that this extended credit, for causes detailed in the documents, was subsequently revoked by the company's agent, and the company thereupon, in the year 1817, proceeded to foreclose in chancery, their mortgage against Major Hoops, and afterwards sold the land in question.

It is proper to state that several of the allegations of Major Hoops are contradicted or explained by their agents, as appears from their answers in chancery, to which the committee respectfully refer the House. Assuming, however, that the statements made by Major Hoops are in substance correct, and certainly the weight of evidence and circumstances are strongly in his favor, the committee will now proceed briefly to state their views of the whole subject before them.

That the State is much indebted to the early and patriotic exertions of Major Hoops, in the settlement of until then an almost unexplored portion of its territory, and that his enterprising spirit has nevertheless overwhelmed him in ruin will not be denied. Major

Hoops is one of the few surviving officers of the revolution, is of unblemished character for honor and integrity, and has devoted a large portion of his life to the most meritorious services. To find such a man in the decline of life, divested of the means of support he had for many years been laboring to secure, gives rise to the most painful reflections, and if the Legislature can within its legitimate sphere of action, extend to him relief, none will deny that it is its right and obligation to do so.

But without intending to express an opinion what mode of relief ought to be adopted, (as the committee readily perceive and acknowledge the force of the many objections that might be made against legislating on injuries arising from the breach of private contracts,) they think it their duty to bring the subject before the House, for its full and deliberate consideration.

All which is respectfully submitted.

**No. 119.**

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**IN SENATE,**

**April 29, 1833.**

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**ANSWER**

**Of Henry Yates, A. M'Intyre, and J. B. Yates, to  
the resolution of the Senate.**

*To the Honorable the Senate of the State of New-York:*

The subscribers having received a copy of a resolution from your honorable body, passed the 25th April instant, requiring them to furnish to the Senate, "on or before Monday the 29th instant, a statement showing the number of schemes or classes of a lottery or lotteries drawn within this State, and when and where drawn, by the firm of Yates & M'Intyre, since the 30th August, 1826; showing also the number of tickets contained or purported to be contained in each scheme, so drawn; the scheme price of the tickets in each class or scheme, and the amount thereof, estimating the tickets therein at their original or scheme price: and also a statement showing the number of tickets sold by them in each of the schemes of any lottery or lotteries drawn within this State, by the said firm, since the 30th August, 1826, and the amount of the same, estimating the tickets sold at their scheme price. That said firm also inform this House what schemes were schemes of mixed land and money prizes, and what the amount of the land prizes in those schemes, respectively; that the statement or returns now required, be made from the books of the firm of Yates & M'Intyre, in which entries of sales as above were originally made, and that said statement or returns be made by the said Henry Yates and the said Archibald M'Intyre, verified by oath,"

**RESPECTFULLY REPRESENT:**

That they have at various times, when required, made representations to the Legislature, exhibiting their rights as citizens



under the laws of the State, and their contracts with the public. That the law officer of the State, and the different committees appointed, have, on examination, been satisfied of the existence of those rights, and that there had been no violation of the franchise under which the subscribers have acted. A number of printed copies of these statements being still in the hands of the subscribers, they will be furnished to each Senator. In addition to which they further respectfully represent, that the call now made for information is wholly unexpected; because, since 1826 they have acted on an arrangement or contract with the public of an entirely different character from the one previously existing. The classes have been adopted, and the drawings multiplied, more with the view to the exclusion of foreign tickets from the market of this State, than any expectation or hope of profit from the rapidity of drawing. It is well known, and has without hesitation been so stated by the subscribers, that a small portion only of the tickets in each class within this State have been sold; it would therefore, have been very unwise on the part of the subscribers, with the limitation theretofore existing, to have adopted the course they subsequently found it expedient and proper to take.

The attacks made upon the subscribers, and the attempts to invalidate and destroy their contracts, have occasioned many losses, and often proved exceedingly perplexing. They have acted in good faith, and are wholly unconscious of meriting these attacks, and therefore, while they admit that many persons in their opposition have been actuated by correct moral feeling, they cannot fail to ascribe some of the attacks, in part at least, to a demoniacal malignity, which has been laboring for years without a known motive, to do them injury by misrepresentation. In order to be assured of some time of quiet in which they might close their affairs, and collect their dues without the hazard of great losses, they have stipulated on certain conditions to surrender a large portion of the time to which they are legally entitled. This contract and the bill founded on it, were both drawn up by the Attorney-General, at the request of the chairman of the committee, in the Assembly, to whom the subject was referred; and the subscribers have executed the contract precisely as prepared by that officer and presented to them. To this contract the subscribers refer with confidence as the best evidence of their wishes to, aid and surrender so great a portion of their rights as a regard to their safety will allow, in order to terminate the lottery operations, as speedily as possible.

The return required by the resolutions, even if attempted to be made, would require a much longer time than is given, or than the present session would allow. But they beg leave to say that such return, if made, could be of no use in establishing the rights of the parties, or accomplishing any object consistent with those rights. It has been repeatedly acknowledged that the number of those classes exceed the limit of the act of 1822, and have been drawn under the contract with the city of Albany, authorised by the law of 1826. The naked law point is then presented by the question on the validity of the law of 1826, which has been submitted to the Attorney-General, and his opinion, together with his full examination of the whole subject last year, has been before the Legislature a long time. If doubts as to the legality of the conduct of the subscribers existed, they had reason, as citizens confidently resting upon their rights, to believe that proper judicial inquiry by "quo-warranto" would have been instituted, and the vexed question properly settled, rather than a continual and vexatious resort to extra judicial proceedings and ex-parte investigations, which decide nothing.

The subscribers have seen a petition of Palmer Canfield, presented to your honorable body, in which there is great variety of misstatement, most of which they have not time now to answer or notice. There is, however, a charge of such a nature made in one part of his petition, that it is requisite to refute it; which is, unfairness in the permutation lotteries heretofore used on a few occasions by the subscribers in this State.

This charge, so serious in its nature, they will not attempt to refute by any declarations of theirs, but refer to explanations contained in one of the pamphlets, of this mode of forming and drawing, by several disinterested and eminent mathematicians, by which it will be seen that incorrectness or unfairness in that mode of lottery, as well as in the combination plan, is impossible.

Palmer Canfield has also asserted that a distinct grant from any of those under which we have yet acted, called the Fever Hospital grant, had been pledged to the late William James, Esquire, leaving it to be inferred that the subscribers had assumed to relinquish a right with which they had parted; and he asserts further, that the bond to the State for the payment of prizes, required by the law of 1826, had not been given, and thus the condition precedent in that act not having been complied with, the contract was

not complete, and therefore no rights had accrued under it. The subscribers are informed that the necessary proof has been furnished to the chairman of the committee to show the incorrectness of both these allegations.

Desirous not to trouble the Senate with a more detailed examination of their rights, and with a confident reliance that no desire is entertained unnecessarily to violate them, they submit the above answer to the call made by the resolution of the Senate.

*New-York, April 27th, 1833.*

A. M'INTYRE.  
H. YATES,  
J. B. YATES.

**No. 120.**

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**IN SENATE,**

**April 27, 1833.**

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**COMMUNICATION**

**Of the Commissioners of the Canal Fund, in relation to loans for the construction of the Chenango canal.**

**CANAL ROOM, }  
April 26, 1833. }**

**TO THE SENATE.**

The Commissioners of the Canal Fund respectfully represent to the Legislature, that on examining the act for the construction of the Chenango canal, they find that the section which relates to the form and conditions of the certificates of stock, is in the following words: "All loans made for the purpose aforesaid, shall be payable at the discretion of the Commissioners of the Canal Fund, after the year eighteen hundred and forty-five, or sooner if the debt now charged on the canal revenues shall have been paid; and for such loans certificates of stock shall be issued, in the manner directed in and by the "Act to improve the funds and provide for the redemption of the funded debt of this State."

If the Commissioners were to exercise their discretion in relation to the form of the certificate, they would make the stock payable at the pleasure of the State, after the year 1845. If the discretion given the Commissioners in this section applies only to the time and manner of redeeming the stock, after it is issued; and if there is to be a reservation on the face of the stock, for its redemption at the pleasure of the State, *before* as well as *after* the year 1845, then, in effect, the stock is redeemable at the pleasure of the

[Senate, No. 120.]

government, and its value in the market will be greatly diminished, if it is issued on these terms.

It is obvious from the second section of chapter 320, of the session of 1831, that the Legislature intended that all stock thereafter issued, pledging the faith of the State, should be signed by the Comptroller, and that uniformity should be preserved in the character and description of all certificates issued for State stock. Under this act ten copper plate engravings have been procured for certificates of one dollar, fifty dollars, one hundred dollars, three hundred dollars, five hundred dollars, one thousand dollars, three thousand dollars, five thousand dollars, ten thousand dollars and twenty thousand dollars. About fourteen thousand of these certificates have been printed and filled up, to be used hereafter whenever a transfer takes place of any of the canal stocks heretofore issued. The sum paid for these certificates and the plates was \$1,008.93.

The act for the construction of the Chenango canal refers to the act passed in 1818, entitled "An act to improve the funds, and to provide for the redemption of the funded debt of this State;" but makes no reference to the provisions of chapter 320, of 1831, according to which the certificates for State stock have been prepared. If the Chenango canal stock is made redeemable at the pleasure of the State, after the year 1845, or any other year, the plates already provided will answer; otherwise new plates will be necessary, and an expense probably of 500 dollars will be incurred in procuring them.

The provision in the 4th section of the act for the construction of the Chenango canal, relative to the redemption of the stock prior to 1845, "if the debt now charged on the canal revenues shall have been paid," must be entirely inoperative, from the fact that the debt referred to embraces the Oswego canal stock, payable in 1846, and the Cayuga and Seneca stock, in 1849. These stocks, amounting together to \$664,347, are charged upon the canal fund, by the 5th section, chapter 271, and the 4th section, chapter 272, pages 394 and 396 of the Session Laws of 1825. There is no reason to believe that the whole of this stock can be obtained before the most remote period fixed for its redemption, which is in the year 1849.

The Commissioners of the Canal Fund have prepared an amendment to the act for the construction of the Chenango canal, which they beg leave most respectfully to present to the Legislature.

A. C. FLAGG, *Comptroller.*

JOHN A. DIX, *Secretary.*

JOHN TRACY, *Lt. Gov.*



**No. 121.**

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**IN SENATE,**

**April 29, 1833.**

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**MEMORIAL**

**On the subject of the public health, by James R.  
Manley, resident physician.**

*To the committee of the Senate on the public health :*

**GENTLEMEN,**

As the resident physician of this city, the public have a right to expect that I will from time to time make such communications on the subject of the public health, particularly in relation to epidemic diseases, as may serve to direct the constituted authorities in the choice of the most probable means to arrest them, or to mitigate their severity. Such communications the board of health of this city may claim of me of right, but as the experience of the last year has sufficiently shewn that the right may be waived at will, without assigning a reason, I have thought proper to tender the following papers to you. The responsibility of my official station I trust that I fully appreciate; I am willing to assume it under all circumstances, and certainly cannot consent to acknowledge any measure of obligation to those who, without presenting a motive, would wish to relieve me from any part of its weight.

Our experience of the last summer has been severe beyond all former example, but it must be admitted also, that our instruction has borne no reasonable proportion to the measure of the chastisement; and if, in the judgment of Almighty God, we should be again visited by a like pestilence, it is scarcely too much to fear that our appliances to meet it will be found as inadequate as during the last season.

[Senate, No. 121.]



Cholera is a disease whose causes are as inscrutable as are those of epidemic measles or influenza; and we might congratulate ourselves if its treatment was but half so well understood. It is our misfortune, and the misfortune of the world (for it is probable that ere long we may be obliged to search for the spot which it has not visited,) that its course is too rapid and too terrific, and its symptoms bear too great a resemblance to those which in all congestive fevers, immediately precede death, to enable us calmly to contemplate its characters. Our care is not to cure a disease, if I may so speak, but to snatch the patient from the jaws of a death which appears to be inevitable, by means the most obvious, or the most convenient to apply. That a disease which for twenty years has ravaged the fairest portions of the world; whose victims are as numerous as the sands on the sea-beach; whose march has been rapid as the shadow of the sun-dial, and which has clothed in sack-cloth every city, village and hamlet through which it has passed, should at this day, and after such multitudinous experience, be as ruthless, as remorseless and as fatal as when it first appeared on the plains of India, is a problem the solution of which must stagger all the philosophy of medicine. Perhaps no epidemic which has ever afflicted the human family has received a larger share of attention from the medical profession. It may be reasonably estimated that more than a thousand different physicians in Asia, Europe and America have attempted to write its history, and transcribe their own experience, and to this hour, for all practical uses, the greater part are utterly valueless, certainly for all the purposes of prevention, and I had almost said, as guides in its medical treatment. Writers have been disposed to speculate on its remote causes in place of seizing on its proximate effects, although with the remote causes not only of this, but of all other general epidemics we can know nothing which we can apply to any practical use. This epidemic possesses a character which has hitherto defied all the researches of philosophy, and with our present measure of information respecting such diseases, it is scarcely to be presumed that we could possess the means to prevent it if our resources were so extensive as to be limited only by the measure of possibility. Who, in the exercise of his senses, would pretend to arrest the march of influenza or measles? and yet those diseases have been known and described two thousand years ago. We may as well confess our ignorance at first as well as at last; the most intelligent physician or natural philosopher knows no more of their causes

than the peasant or the artizan; the only difference between them is, that the one can conceal his ignorance in terms of science, while the other is obliged of necessity to confess it. It has been called an *atmospheric disease*, a disease arising from *telluric* exhalation, a disease resulting from a depraved state of the air we breathe, from a deficiency of electricity; and for all the information derived from these speculations, it might as well, and perhaps with as much propriety, be imputed to the influence of magnetism. In truth, we know nothing about its cause, and can know nothing with certainty, and we are compelled to confine our views to its effects. Our most accurate analysis of gaseous agents teach very little on the subject of marsh miasmata; we believe them to be causes of fever; but why these causes should produce fever of an intermittent type in one case, a remittent in another, a dysentery in a third and endemic cholera in a fourth, is still a secret to the wisest.

But if we are fated to be ignorant of its original, we are not devoted to destruction from its influence; that cause, be it what it may, is known to act with more or less intensity, as causes which we in a measure can control, co-operate with its agency. Heat, moisture and accumulations of putrescent materials are known to increase its malignity, either by adding to its virulence, or by inducing a predisposition to be affected by it; and against the known results of these any many other circumstances, subsidiary to the spread of epidemics, it is our business to guard rather than spend our strength in fruitless attempts to ascertain that which when known could add nothing to our stock of preventive measures.

Cholera is the most remarkable plague known in the annals of history, and although it is only within the last twenty years that it has attracted special attention, there is abundant evidence to prove that it is no new disease. More than two-hundred years ago, (1629,) it, or a disease so similar as with difficulty to be distinguished from it, has been described as an epidemic in equinoctial India. (Java); and at various periods, according to the reports of the Bengal and Madras medical boards, it has been epidemic in almost every section of those extensive presidencies, where causes known to be favorable to the spread of diseases presumed to arise from marsh miasm most abound. Its course in some of its visitations, is described as inconceivably rapid, its victims submitting to the stroke of death "by hundreds and at an hour's notice;" the

time of its continuance in many cases being so short as to prevent the evolution of a train of symptoms by which it could be marked.

While its ravages were confined to India and its islands, and its range was restricted within limits which marked the natural home of pestilence; as it seemed to have no terror for the European, so it scarcely attracted any more attention than mere curiosity would excite; but when it assumed the character of a migrating epidemic; when passing over land in a northwestern direction it entered Europe, and following the course of the great rivers, left its pathway marked by desolation and death, until it reached Petersburg, and thence spread its terrors in almost every known direction; then it was that it became a subject of thrilling interest to all who by their contiguity, or by their commercial relations considered themselves endangered by its influence. England, France and Germany took the alarm, and sent special commissions to the various seats of pestilence in order to learn its history and the most successful method of its treatment, and the results which have been given to the world have been more calculated to create alarm than to calm the apprehensions which prompted these precautionary measures.

In the spring of 1832, it made its appearance in Quebec, in Lower Canada, and thence travelled in directions west and south, reaching this city in the latter part of June. The first case known to have the character of the disease terminated fatally on the 29th of that month, and although its existence was denied on the 2d day of July, evidence which neither skepticism nor interest could resist, was furnished on the 3d; and from that day onward till the first of September, was emphatically the reign of the most awful pestilence ever known in this city. In July the number of deaths was 1,797; in August, 1,232; in September, 451; and in October, 63; making a total of 3,513, in the short period of one hundred days.

It is a remarkable feature in the history of this disease, that although its worst form has been described a thousand times, and with an accuracy which defies criticism, it has not been in the least degree divested of its terrors: its treatment is as much now as at any former period empirical: physicians who are called to treat it, are in truth obliged to contend "with death on the confines of the grave," their only business being to arrest the march of the de-

stroyer, by preserving life enough in the patient to give an opportunity for the exhibition of remedies.

I have said that the disease in its worst form has been frequently described. I should rather have said, in its worst stage; and it is needless here to detail the symptoms, "*they are as familiar as household words.*" No man who has seen them can ever forget them, and none who have heard without having seen will require to have them repeated! The exhausting serous diarrhœa, the cold clammy sweats, the scarcely to be detected pulse, the cold tongue, the icy breath, the corrugated and blue-bleached hands and feet, and the painful spasms which precede and accompany them, are not more the evidences of disease than they are the premonitions of death, and especially mark the character of cholera in tropical climates, where causes auxiliary to the reigning agent, be that what it may, exist in a degree unknown in more northern and generally more salubrious latitudes. My own belief, and I trust that upon a full and calm examination I shall be found in a majority, is that the above symptoms, as they are the worst, so they are the last which make their appearance in this terrific plague. The cause ordinarily is operating in our latitudes for days and weeks before disease manifests itself with these awful symptoms, and those conditions of the system which physicians have been pleased to term *premonitory symptoms*, is in truth the disease itself. Then it is that medicines may be remedial in fact, and strange to say, this stage is almost always overlooked, or treated as of little consequence. As the evidences of sickness are not generally in this early stage-painfully present, being occasional unpleasant sensations in the muscles of the arms and thighs, a capricious state of the bowels, sometimes loose, at others costive, unattended by pain, they are readily explained by some irregularity in diet or regimen; they create no alarm, nay, they may from time to time be repeated without exciting any apprehension; there may be a constant disposition to sigh, and an occasional sense of fulness in the region of the chest, and still no alarm is manifested, for the patient is still able to attend to his or her ordinary business: these symptoms, notwithstanding, are sure evidences of diseased action, and their frequent recurrence may eventuate at an hour's notice in that awful condition of the subject which points with unerring certainty to the grave. If it be objected that in many instances there are no such symptoms as above described, I will readily allow it, knowing it to be generally true in tropical countries, and measura-

bly so in this; but the reasons why they are not present may be the same in both. Asiatic cholera, and cholera as it has appeared in this country and in Europe, differ only in degree: the disease is essentially the same. In the first case, the auxiliary causes operate universally on all subjects: the exceptions are those in which premonitions exist, whereas in the last, the exceptions are those in which they do not obtain. In the one, the enervating influence of a tropical sun; the presence of marsh miasmata; the diurnal variations in the temperature of the atmosphere; the manner of living adopted by necessity, which in a great measure forbids the indulgence in animal food; and the excesses to which the rich are invited in some cases, by the restraints imposed upon them in others, all co-operate to create a predisposition to disease from epidemic causes, from which the inhabitants of more northern countries are exempt; and if the cause operates only with the same measure of intensity, it operates on constitutions so enfeebled as to be unable to resist its first attack, and by natural consequence it is followed by a train of symptoms which speedily terminate in death.

That the disease does frequently attack without warning in this country; that its access was occasionally as sudden and as violent in Petersburg, in Paris, in Quebec, Montreal and New-York, as in India or any other tropical country, may be explained by the fact, that in all large cities, no matter where situated, there is always a large population who hold their lives on a very precarious tenure. The life of the destitute poor and the dissolutely vicious is of this character; their irregularity of living, to say nothing of the evils of intemperance, is calculated to make them the fit recipients of disease, let it present in what form it may; they are especially the first victims of all epidemics; and when we add the degrading and the debasing effects of ardent spirits in excess, the want of prudence, the want of cleanliness, their utter recklessness of consequence, and their contempt of or deafness to the dictates of common reason, is it to be wondered at that this disease should occasionally attack without warning? Are not such persons always predisposed? I hope that I may be excused for insisting on the position *that the symptoms usually termed premonitory* are those which mark the disease with as much certainty as those which immediately precede death, because I purpose to suggest a measure calculated to mitigate its severity, founded on this circumstance. The fact accords with my own experience and that of most of the

writers on the subject whom I have consulted. The great error appears to have been, that those symptoms have been considered as of small consequence till their recurrence and continuance have dispelled all doubt as to their nature, and when the doubt has been dispelled, no time has been allowed to correct the mistake by reason of the exhaustion thus insidiously induced.

That the remote cause of cholera is universal in its operations within the sphere of its influence, may be inferred from the fact, that the blood drawn from the arms of all patients requiring this species of depletion, be their diseases what they may, is uniform in colour and consistence, and both shew that it has been submitted to changes which, with our present measure of information, may be justly ascribed to a want of due oxygenation; it is dark coloured, thick and tenacious; and blood drawn from patients laboring under cholera in its aggravated form not only presents the same appearance, but on analysis offers results which plainly demonstrate that it has been deprived of a portion of its constituent principles: the water is deficient; the salts which enter into its composition are scarcely appreciable; its colouring matter abounds, and it possesses neither taste or smell; and that this condition is not a consequence, but a cause of disease, is fairly to be presumed, from the circumstance that the change is produced without any perceptible organic lesion. The colour and consistence of the blood bear a strong resemblance to that drawn in congestive fevers, pneumonia or pleuritis for example, which is presumed to arise from a want of power in the lungs to oxygenate or decarbo-nise the circulating mass from oppression of those organs; and as no oppression is manifested in cholera, except as a consequence of disease, we have a right to infer that the change is produced, not by loss of function, but by a *deficiency* or a *depraved condition* or *combination* (and it is doubtful which,) of the *oxygen* of the *atmosphere*, which is essential to the life of all animals.

It is not my intention to enter at large upon the discussion of this subject, nor would it be proper in a paper of this kind, but I advert to it to show that it is highly probable that this depraved state of the blood is induced, not by the operation of a cause for a day or an hour's duration, but by a silent, insidious and comparatively tedious agency, at the first perhaps scarcely perceptible, afterwards rendered more sensible by inducing lassitude and sick-



ness, and finally manifesting itself by those symptoms which authors have been pleased to term *premonitory*.

Entertaining the opinions of cholera and its cause as above recited, it is natural to inquire whether or not any measures can be adopted, with a probability of success, to check its progress or to mitigate its severity in the event of its recurrence. If the inquiry has reference to its arrest as an epidemic, I will without hesitancy, answer in the negative: we know nothing of the nature of the poison, and of course can know nothing of its antidote. We do know, however, that this epidemic is aggravated by causes which we may control or remove, and our attention should be, in an especial manner, directed to them: as preventive measures are not in our power, precautionary ones should engross all our solicitude.

The question of the contagiousness or personal communicability of this disease I will not attempt to discuss, and it will be time enough to waste words on the subject when one well authenticated case of this character shall have occurred; for so far as I am informed, either by my experience or my reading, that case is still to be recorded. It is a fundamental rule in philosophy, that "no more causes of natural things should be adduced to explain the phenomena of nature, than being true, are sufficient for the explanation," and no instance has yet happened which has required the aid of contagion to account for it, or which could be satisfactorily explained by its assistance; and I am concerned to say, that I believe that more harm has been done to the interests of humanity by the belief in this prejudice, than could otherwise have occurred, even if a confidence in its contagious nature had been well founded, and the world notwithstanding had determined to resist the evidence.

The security of the public, when this pestilence prevails, depends very much upon themselves: although all may be, and in truth are, subjected to its influence, by far the greatest part remains unharmed under its most severe visitations. It is possible for persons to become acclimated to a pestilent atmosphere, and good general health is the condition upon which they may claim their immunity. In the season of cholera, therefore, it is necessary to guard every avenue by which disease may invade: the prudent must realize the necessity of more than ordinary caution,

and the careless must learn wisdom: in the emphatic language of the Bible, all "*should use this world as not abusing it:*" all the proprieties of social life are to be considered as duties indispensable, and duties too accompanied with a promise; for if ever the providence of God addressed our very senses, and displayed itself as the rewarder of cleanliness, temperance, prudence, resignation, and confidence, it is during the prevalence of this awful disease.

Temperance in eating and in drinking, not only in relation to the amount but the quality of food and drink, ought to be particularly observed. All excess in the use of ardent spirits, always a vice, and especially the vice of all countries where the bounties of Providence are most abundant, the means of subsistence cheap, and idleness may be afforded, is to be avoided as pestilence itself, for it is in seasons like this that its deluded subjects are required at short notice to pay up all their arrearages of penalty. All inordinate fatigue, and all unusual exposures, which may cause suppressions of perspiration, and thus induce predispositions to disease, are to be carefully guarded against; and in the choice of necessary food, that which is chiefly animal, in connection with vegetables known to be easy of digestion and least liable to acid fermentation, is to be selected. It is essential also to cultivate a temper of mind alike removed from the extremes of a reckless indifference which affects to fear nothing, and a timid anxiety which fears every thing, as there is known to exist an extraordinary and intimate sympathy between the mind under the influence of the depressing passions, and those organs which are peculiarly the seat of disease in this epidemic; and if an unusual condition of the stomach and bowels at any time occurs, although it may not amount to disease, let it claim attention in season, since it is always premonitory of danger.

To the constituted authorities of all places in which this disease may declare itself, in addition to the means usually adopted having relation to cleanliness and ventilation, I would suggest such an extension of police regulations as would embrace *markets*. The sale of all unripe or unwholesome vegetables, all stale or unwholesome provisions, and especially all stale fish, which constitutes a large part of the food of the poor in the Atlantic cities, should be prohibited under severe penalties. The peculiar care of the poor in seasons of pestilence, devolves on the magistracy of our cities and villages; their poverty is as often their misfortune as the result of



their folly; and it is not more their duty to relieve their distresses than it is to provide against them; and for this latter purpose, all information on the subject of exciting or occasional causes should be as fully distributed as possible. Their condition, more especially, in relation to diet, ought to be the object of attention. From absolute inability to procure for themselves wholesome and nutritious food, they are frequently obliged to eat the refuse of the tables of those in better circumstances, which, although it may have been of the best quality when first prepared, has become cold, hard and indigestible; and when taken in large quantities, as is usually the case, (for this class of people suffer all the inconvenience arising from inordinate indulgence on the one hand, and absolute hunger on the other,) it is a fruitful source of the diseases of indigestion, all of which are predisposing causes of cholera.—The public must be made to know that the least indiscretion in seasons of cholera is attended with hazard, and that a single debauch may result in an attack which may terminate in death.—Care should be taken, especially, that inquiries into the state of health of each family be made at least twice in every week, in order to ascertain if possible, whether any person is indisposed from an affection of the stomach or bowels. If poor, medical advice and attendance should be furnished them at the public charge, and if in circumstances to employ their own physicians, they ought to be requested to avail themselves of their services before the disease assumes a serious aspect. Those affections of the stomach and bowels known by the name of premonitory symptoms are easily managed, and can be successfully treated by all intelligent physicians; and as they arise from the operation of an epidemic cause which we cannot control, our care should be to place the organs upon which the cause is known to spend its strength, in the best possible condition to resist its influence. By the adoption of this, or some similar arrangement, few hospitals, in case of the prevalence of cholera, would be necessary; but those few should be *well appointed*. Physicians belonging to them ought to be required to keep a registry of all cases, with the histories and the treatment of all persons admitted, in order that a comparative estimate of the success of the several modes of treatment might be conveniently made for the benefit of others who would require information.

I am your's, with great respect,

JAMES R. MANLEY,

*Resident Physician*

*New-York, April 17th, 1833.*

**No. 122.**

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**IN SENATE,**

**April 29, 1833.**

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**REPORT**

**Of the committee on literature, on the petition of  
Edwin Williams.**

Mr. Lansing, from the committee on literature, to whom was referred the memorial of Edwin Williams, of the city of New-York, on the subject of legislative aid and encouragement for an improved Gazetteer of the State of New-York, which he proposes to publish,

**REPORTED:**

That in the opinion of the committee, a work of the character of the proposed Gazetteer is much wanted at the present time, none having been published since the edition of Spafford's Gazetteer, printed in 1824. To increase the value of the proposed work over that of any similar one ever published in this State, it is intended to insert maps of each county in this State, well engraved, in which the town lines will be given, and other particulars, from actual survey; also a new and correct map of the State. The volume to contain at least five hundred octavo pages, besides the maps, and to be afforded to the public for the price of five dollars, which is considered as reasonable as that of any similar publication.

The memorialist is favorably known to the public as the compiler of the New-York Annual Register, which has been published for four years, and has repeatedly received the patronage of the Legislature, also a new Universal Gazetteer recently published in the city of New-York; and therefore it appears to your committee that he is peculiarly well qualified for the task which he proposes to accomplish. This being an undertaking of considerable

[Senate, No. 122.]

magnitude, it may, in the opinion of your committee, be an object worthy of legislative patronage. Such patronage has been extended to works of a similar character, as is evinced by the aid granted by former Legislatures to Horatio Gates Spafford, in the publication of his Gazetteer of this State, and to David H. Burr, for his Atlas and maps of the State, and the several counties.

Were the proposed work in whole or in part completed, and were the same accurately and faithfully executed, the committee would express some opinion as to the propriety of a purchase on the part of the State of one copy of the same for each of the towns in this State, to be deposited in the office of the town clerk, for the convenience of the people in all parts of the State; but under present circumstances, and at this advanced stage of the session of the Legislature, the committee would express their opinion that the proposed Gazetteer is a work likely to be useful to all classes of our citizens, and may be entitled to the favorable notice of the public, and to legislative patronage, when the same shall be completed. The committee would suggest, that in their opinion the several State officers, and the clerks of the several counties, may perform a service to the public by granting every facility to the memorialist in his researches after accurate statistical and geographical information respecting the different sections of this State.

**No. 123.**

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**IN SENATE,**

**April 29, 1833,**

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**REPORT**

**Of the select committee on the bill from the Assembly to incorporate the Saratoga and Whitehall Rail-Road Company.**

**Mr. Deitz, in behalf of a majority of the select committee to whom was referred the bill from the Assembly to incorporate the Saratoga and Whitehall rail-road company,**

**REPORTED:**

**That the committee have held several meetings, of which the applicants for the said bill have been notified, but have neglected to attend, from which, and from remarks made to them, the committee have come to the conclusion that it is the design of the applicants not to press the bill any farther.**

**The remonstrants to the said bill have appeared before your committee, and have submitted the following propositions:**

**I. To have the bill so amended as to enable them to construct a rail-road from Troy to Whitehall by the way of the Saratoga Springs, granting to the original applicants the right of running their cars on said road, paying therefor such tolls as any disinterested tribunal should deem equitable.**

**II. To unite with the original applicants in a joint stock company, making the road from Saratoga Springs to Whitehall for their mutual benefit, with a branch to Troy: Or,**

**III. To withdraw their objections to the passage of the present bill by making such amendments as will enable the remonstrants to run their cars on said road from Saratoga Springs to Whitehall, subject to such tolls as may be deemed equitable, to be ascertained**

by some disinterested tribunal, with the privilege of constructing a branch from Saratoga Springs to the city of Troy at their own cost and expense.

The committee cannot but deem these propositions fair and equitable, inasmuch as the remonstrants claim to have been the first applicants for connecting the communication between the waters of lake Champlain and the tide waters of the Hudson river at the city of Troy; and the remonstrants further state, that an application of theirs at the last session, to accomplish that object, was defeated, upon the ground that it was impolitic to authorise any work that might interfere with the income of our canals; and relying, as the remonstrants did, upon that expression of the Legislature as settling the future policy of the State, they did not renew their application at the present session.

They also claim the right of participating in this communication, upon the ground that Troy, Lansingburgh and Waterford have been brought into existence and sustained in their commercial relations by the trade and travel naturally descending into the valley of lake Champlain and the Hudson river, following the course of that river to these places; and they contend that the passage of the present bill, without the modifications asked for, will divert this trade and travel from them, to the ruin of their growth and prosperity.

The committee do not think it either good policy or just in the Legislature to confer privileges which may tend to elevate one section of our State, by changing the natural and accustomed channels of commerce, to the injury of cities and villages grown up under these natural commercial advantages, when the same public facilities of communication are offered by the places possessing these natural advantages as by those who are endeavoring to divert these advantages from them.

Your committee believing the case referred to them to come within this rule, recommend the adoption of the proposed amendments.

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